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WOMEN'S NEEDS

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REPORT TO THE 1983 GENERAL ASSEMBLY OF NORTH CAROLINA

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LEGISLATIVE RESEARCH COMMISSION

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January 12, 1983

TO THE MEMBERS OF THE 1983 GENERAL ASSEMBLY:

The Legislative Research Commission herewith reports to the 1983 General Assembly on the matter of Women's Needs. The report is made pursuant to Resolution 61 of the 1981 General Assembly.

This report was prepared by the Legislative Research Commission's Committee on the Economic, Social and Legal Problems and Needs of Women of North Carolina and is transmitted by the Legislative Research Commission for your consideration.

Respectfully submitted,

Liston B. Ramsey

W. Craig Lawing

Cochairmen
Legislative Research Commission

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INTRODUCTION

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INTRODUCTION

The Legislative Research Commission, established by Article 6B of Chapter 120 of the North Carolina General Statutes, is composed of twelve legislators who study a broad range of subjects authorized for study by the General Assembly (Membership, see Appendix A). During its 1981 Session, the General Assembly directed the Legislative Research Commission to study among a number of topics, the economic, social and legal problems and needs of women in North Carolina.

Representative John J. Hunt, serving as a member of the Commission, was appointed as Legislative Research Commission member in charge of the study. Senator Helen R. Marvin and the late Representative Robert A. Jones were originally appointed as Cochairpersons of the Committee. Also serving on the Committee were Senators Rachel G. Gray, William G. Hancock, Jr., Marvin Ward, and Representatives Marie Colton, Ruth M. Easterling, Lura Tally, Wilma C. Woodard and public member, Mrs. Alice W. Gatsis. Representative Easterling was later appointed to succeed the late Representative Jones as Cochairperson of the Committee (Membership, see Appendix B).

Staff assistance was provided to the Committee through the Legislative Services Office. Mrs. Shirley Capps served as Committee Clerk.

Resolution 61 (House Joint Resolution [1292]) is an omnibus resolution which authorizes the Legislative Research Commission to study twenty-nine topics, including the economic, social and legal problems and needs of women (Appendix C). This Resolution also enables the Commission

to consider "the original bill or resolution in determining the nature, scope and aspects of the study." The resolution to which it refers, House Resolution 1238, (see Appendix D) provides:

Sec. 2. The commission may specifically study:

a. the potential impact of federal budget cuts on women and also on their dependent children, especially low income working women, female heads of households, AFDC mothers, female social security recipients who presently receive minimum benefits;

b. the residual sex discrimination contained in common law case law and administrative proceedings of the State of North Carolina;

c. the extent to which the recommendations of the 1977 Legislative Research Commission Report on Sex Discrimination have been implemented;

d. any other matters appropriate to the mandate contained in Section 1.a. above.

This report presents a summary of Committee proceedings, findings, recommendations and proposed legislation for action during the 1983 General Assembly. It also recognizes areas where the Committee concludes that additional research and study of the mandated topics would be additionally productive.

COMMITTEE PROCEEDINGS

COMMITTEE PROCEEDINGS

This report results from six meetings held by the Committee on November 13, 1981, January 18, 1982, April 5, 1982, September 23, 1982, November 9, 1982 and November 23, 1982. The first of these meetings, the organizational meeting, was held with Senator Marvin presiding.

November 13, 1981 Meeting

The Committee received information reflecting current conditions and needs of North Carolina women. Ms. Miriam Dorsey, Director of the Council on the Status of Women, presented an overview of the status of women in the State. She informed the members that more than half of the State's population is women (51.6 per cent) and 56 per cent of the registered voters in North Carolina are women. Ms. Dorsey's list of major concerns of North Carolina women included employment and education, feminization of poverty, domestic violence, sexual assault, health, and legal problems (See Appendix E).

Ms. Kay Fields, Chief of the Assistance Payments Section of the Department of Human Resources, discussed State and federal financial assistance to women. She estimated that once the changes to Aid to Families with Dependent Children (AFDC) enacted by Congress and effective October 1, 1981, were experienced, there would be a significant impact on the AFDC families (See Appendix F).

While speaking to the issue of the financial needs of older women, Ms. Margaret Riddle addressed the group. She noted that of the 330,000 households in North Carolina below the poverty level, fifty per cent are

headed by a female. Thirty-three per cent of those women are over sixty years of age, thirty-two per cent are white and twenty-six per cent are nonwhite. She said that women, as they are getting older, are getting poorer. She remarked that women are losing their freedom of choice about how they want to live out their lives. She focused on two major contributions to this loss of freedom, the basic policy decisions concerning Social Security (the threat of a system "going broke") and the cultural biases adverse to women which women must face today (See Appendix G).

Speaking on the topics of education and employment issues were:

(1) Ms. Doris Jacobs, Sex Equity Coordinator, Department of Community Colleges;

(2) Mr. Walter Brown, Sex Equity Coordinator, Department of Public Instruction;

(3) Ms. Ann Whitley, Executive Director of the Women's Center in Raleigh; and

(4) Dr. Chris Battiste, Coordinator and Career Counselor, Women's Link Program of Wake County.

Ms. Jacobs spoke to the tremendous need to educate and train women to become more employable. While identifying the largest group of poor people in this country as older women, she noted that if they worked at all, eight per cent, or four out of five of them, worked in the lowest-paying jobs (such as waitress, salesclerk and secretary). She prophesized that one out of four of today's young women can anticipate living their older years in poverty.

To improve this grim picture, Ms. Jacobs discussed how community

colleges are helping women, many in the throes of poverty, to restructure their lives. Further exploring the question of what the educational establistment has done to promote equity, she cited Title IX of the Education Amendments Act of 1972. Title IX deals primarily with the guarantee that women and men have equal access to all educational programs, including equal access to financial aid, counseling and extracurricular activities. Additionally she cited Title II (Education Amendments of 1976) which facilitates the entry of women into nontraditional jobs, often through the Community College System and secondary institutions which teach welding, automotive mechanics and other technical, higher-paying jobs. She also cited North Carolina's funding of programs for Community Colleges to get women off welfare by bringing them into these institutions to teach them motivation and how to apply for, interview and keep jobs.

Mr. Brown voiced the commitment that vocational education has made in North Carolina; to eliminate all sex bias, stereotyping and discrimination in vocational education programs. However, he advanced the view that attitudes would have to be changed to provide the kind of training that students need to go out into nontraditional jobs.

Turning to the issue of employment assistance for separated, widowed, and divorced women, Senator Marvin introduced Ms. Ann Whitley, Executive Director of the Women's Center in Raleigh. Ms. Whitley identified the areas in which the center provides assistance to include help with personal problems, marital and parenting concerns, housing, legal problems, abuse, and employment problems. She then introduced Dr. Chris Battiste, Coordinator for the Center's LINK Program, an employment assistance program for CETA- eligible, displaced homemakers. Dr. Battiste

informed the Committee that the LINK Program provides career counseling, support and encouragement to renew self-esteem, reduce self-defeating behavior and help individuals find the courage to take steps in assuming charge of their lives and learning job search skills. She then alerted the Committee that, because of federal budget cuts and changing priorities at the local level, funds have been cut for the LINK program.

First to speak to the issue of physical and psychological health needs was Ms. Natalie Cohen, Director of Public Affairs, Planned Parenthood of Greater Charlotte. She cited some of the major issues concerning women's health needs in North Carolina: access to services (particularly for poor women, teenagers and women in rural areas), development of more creative innovative and acceptable health care delivery, abortions, free-standing clinics, and teenage pregnancies. Citing teenage pregnancy as the number one issue, she urged sex education in the schools in order to prevent unwanted teenage pregnancies.

Focusing on a topic with tremendous physical and psychological health repercussions, Mr. Phillip Lyon, Attorney General's Representative to the Sexual Assault Task Force, spoke to the Committee on some of the problems of rape victims and victims of sexual assault. He not only cited the problems of victims of sexual assault and rape by a stranger but he also stated that fifty per cent of all runaway girls had been sexually abused by their fathers, surrogate fathers, brothers, etc. and that this percentage could be as high as eighty per cent. However, the money needed to operate Rape Crisis Centers or shelters for treatment for these runaways is being cut and many services are no longer available.

Finally, speaking on the issue of spouse and child abuse appeared Ms.

Sandra Sink, Executive Director of Wake County Women's Aid. She cited needs for families experiencing violence which might be addressed by the General Assembly as: full enforcement of the existing laws, a legal defense fund for women who need legal services, additional legal advisors, protective orders, litigation and other services concerning domestic issues such as support and custody, support for abuser programs, counseling programs that are court-ordered, witness support services in criminal cases, training for magistrates, law enforcement officers and the legal community in general to learn special laws applicable to family violence. She also cited the unavailability of funds to support the needed programs.

Ms. Carol Spruill, Staff Attorney for East Central Community Legal Services and representative of the Association of Women Attorneys, cited five major areas that require legal redress. These were: child support, Aid to Families with Dependent Children (AFDC) to unemployed parents, exclusive male control of entireties property, amendments to the equitable distribution of property act and domestic violence program funding. Ms. Spruill's description of society as increasingly a two-income family, leaving the one-income family the poorer family, provided the basis for her determination that there is an immediate and increasing need for stronger child support enforcement laws. She discussed a suit in which she represents women who allege that the Social Security Act (as amended in 1974) includes a Child Support Enforcement Program with services which are supposed to be made available to them as non-AFDC recipients, as well as to AFDC recipients.

Her second point was that AFDC payments should be made available to households with both parents in the home (neither parent disabled) when

neither parent is working (although the supporting spouse would be required to keep looking for a job). Her rationale is that families are better off if they stay together and, with the rising rate of unemployment, the extension of this program is more important than ever.

She further described as inequitable, the North Carolina law that prescribes if a husband and wife own property by the entireties that produces rents and profits, the husband has a right to manage and collect these profits and he does not have to account to his wife for them.

She then suggested three possible amendments to the equitable distribution of property bill (Chapter 815, 1981 Session Laws) as follows: a clear statement enabling judges to issue restraining orders to preserve the property and otherwise the status quo during the year of separation, an inclusion of pensions as marital property, and a redefinition of separate property which would not include the increase in the value of separate property during the marriage.

Her fifth and final plea was for money for projects to prevent domestic violence and to provide counseling and other assistance to victims of domestic violence (See Apendix H).

January 18, 1982 Meeting

The second meeting of the Study Committee primarily focused on domestic law problems. Following its receipt of this testimony, the Committee discussed Committee recommendations which were discussed at the previous meeting and received additional testimony concerning the status of women in North Carolina.

Testimony concerning domestic law was initiated by Judge John H. Parker, Wake County District Court Judge. After observing approximately 10,000 domestic relations cases, Judge Parker cited seven major problems in Domestic Court as follows:

(1) Children experience severe stress during the process of a divorce.

(2) Visitation disputes are almost insoluble.

(3) Parties do not trust each other.

(4) The adversary process of determining child custody is not always in the best interest of the child and is devastating to both parties.

(5) Time is a problem in that the caseload is so heavy and it takes time to get into Court.

(6) It is expensive to litigate in Court.

(7) The Criminal Court is not a good forum, at least in Wake County for the enforcement of child support.

In order to address these problems, Judge Parker specifically urged: (1) providing trained support personnel to assist domestic court judges, such as psychologists, (2) study of the issue of returning the Domestic Court to the Superior Court, (3) mandatory garnishment of wages of the

supporting spouse who refuses to pay child support (do not include alimony) and (4) that an administrative procedure be established to insure child support enforcement when a payment is missed.

Following Judge Parker's testimony, the Committee heard the statement of Mr. Clifton H. Duke, Assistant Attorney General representing the State Child Support Enforcement Program (4-D Program). He cited the need for a triggering method to get delinquent child support payments made without requiring the custodial spouse to hire a lawyer. His other suggested improvements in the law included: the mandatory garnishment of an employee's salary, while allowing a small administrative fee to the employer, to insure payment of overdue child support in criminal actions; child support confirmed as a judgment and not reduced; and punishment for child support, which was reduced from two years to six months, should be returned to a two-year sentence. He also recommended that legislation clarifying the evidentiary basis on which blood tests would be admitted to prove paternity should be prescribed. Additionally, he explained that under current law a mother of an illegitimate child can be prosecuted at any time until the child is eighteen years of age if she does not support it and that a putative father can generally only be prosecuted for a much shorter time in criminal actions. He urged that the standard of "clear and convincing evidence" should be adopted in criminal and civil actions to establish paternity. Finally, Mr. Duke suggested that the Committee examine extending the time in which to file an out-of-state notice of appeal in the Uniform Reciprocal Enforcement of Support Act (URESA) because it takes more time to get the papers to their destination from out-of-state.

Additional, corrective, legislative concepts were advanced by Ms. Carol Spruill, staff attorney for East Central Community Legal Services and a representative of the North Carolina Association of Women Attorneys. She stated that once divorced, women are the custodial parent in most cases. At the same time they are paid very little and they are unable to collect child support, consequently they are the ones rearing children in "near poverty." One solution for nonpayment of child support would be to allow interest to be charged on all payments in arrears or allow a civil penalty to be imposed if the supporting parent is found to have totally disregarded the payment even though that parent has the means to make it. She also suggested a mandatory weekend jail sentence for the second offense of nonpayment of child support. Additionally, in the present context where women are generally paid lower salaries than men for the same work, she feels that attorneys fees should be awarded to the dependent spouse where she has limited resources and the supporting spouse fails to pay without a just cause.

Testifying to the need for additional assistance for children and dependent spouses, appeared Mr. Travis Payne, attorney with the firm of Edelstein and Payne and formerly with legal services. His address concerned the 4-D Program, the child support program and he touched briefly on the lawsuit which has been filed in Charlotte (requiring the State to seek child support for non-public assistance recipients). He noted that the problem of nonsupport is broader than is indicated by the Aid to Families with Dependent Children rolls and that many families might be able to avoid the necessity of applying for welfare if they had adequate assistance in obtaining support from the absent parent.

Mr. Payne pointed out that some custodial parents, who have low-paying jobs and cannot get the child support payments increased without going back to court (which they cannot afford), would be financially better off to quit their jobs and go on welfare. He informed the Committee that the federal government will pick up seventy-five (75) per cent of the cost of the child support program. (Mr. Payne referred to two tables which showed the North Carolina Statistics for Child Support Enforcement Program and the United States Statistics for Child Support Enforcement Program [Appendix I]). Also Congress, when it addressed the issue of providing services for nonwelfare recipients, meant for that portion of the program to be self-sustaining. Mr. Payne then proceeded to give a bit of history of why the North Carolina Child Support Enforcement Program was developed and chose not, for the most part, to help nonwelfare recipients. He stated that the State Bar was opposed to the idea of assistance for nonwelfare recipients, therefore the assistance was reduced drastically. He noted one way to support the child enforcement program is to collect a portion of the money in arrears, deduct a small percentage for costs and then the State would be able to finance the lawyers and any other apparatus necessary to provide the services necessary to bring the cases to court. Another way is to utilize the "friend of the court," who in most cases is not a lawyer, but a designated individual who can go into court and initiate proceedings and make suggestions to the judge concerning the case. In North Carolina this would be considered unauthorized practice of law by the State Bar. He feels the legislature should look into the matter of getting these people into court without the services of a lawyer or financing the services of a lawyer on a mass basis for those people.

Following the receipt of the morning's testimony the Commttee instructed Committee Counsel to research the concepts and work with the Committee leadership to develop drafts of the legislation discussed. Also, the staff was requested to prepare three amendments to the Equitable Distribution of Marital Property Act (Senate Bill 24, ratified 1981 Session). The amendments would address:

(1) The Court's issuance of a temporary restraining order to prevent the unauthorized disposal of marital property,

(2) the inclusion of income from separate property and the increase in value of separate property which accrues during the marriage as marital property, and

(3) the inclusion of pension rights as marital property.

During the remainder of the meeting the Committee members listened to testimony on the status of North Carolina women. Mrs. Nancy G. Brooks, a homemaker, physicist and professional musician from Chapel Hill stated that she thought women in the State would benefit from conferences on richer homemaking and child rearing. She also urged that women who adhere to an "anti-feminist" philosophy be placed on the Council on the Status of Women. Mrs. Pat Rust, a homemaker and accountant from Chapel Hill expressed the opinion that the Council is functioning in a capacity beyond the role of an advisory agency. She expressed great reservations concerning the Council's development of programs for training women in nontraditional jobs. She further urged that all of the Council on the Status of Women's programs be examined to see whether results justify expenditures and all which do be transferred to another governmental agency.

Comments critical of the involvement of government in the problems of

the elderly were provided by Mrs. Fannie L. Thomason, homemaker and mother from Fayetteville. She asserted that women have "in place adequate services to provide for the elderly" and proposed that no new state or federal programs to assist the elderly be initiated (Appendix J). She also read remarks from Mrs. Tish Browning, Director of Volunteer Training for a chapter of Birthchoice of Fayetteville, who feels that the goals and attitudes of Planned Parenthood do not follow the real needs of women and should not be expanded.

April 5, 1982 Meeting

In an effort to translate concepts into action, the Committee devoted most of its third meeting to its review of twelve pieces of proposed legislation and several resolutions. Senator Marvin cited concerns such as alternative work schedules, the impact of block grants on women, changes to North Carolina's Equitable Distribution Law (Ratified 1981 Session), among others, which the Committee had been unable to address due to the large number of topics needing study and the limited amount of time and funding available for the Committee's work. The leadership then committed itself to seek additional funds in order that the Committee might continue its work following the 1982 Short Session of the General Assembly.

Discussion of AN ACT TO ESTABLISH PROCEDURES TO INSURE PAYMENT OF MAINTENANCE OR CHILD SUPPORT. (See Interim Report, Legislative Library)

The Committee began its deliberation of the bills with proposed legislation to establish procedures to insure payment of maintenance or child support. Mr. Franklin Freeman, Director of the Administrative Office of the Courts, spoke primarily to the issue of cost to implement this proposal.

He said that the present court system utilizes accounting systems, of which 69 of the 100 are manual and nonsupport information is recorded by hand. The other 31 counties have varying types of electronic equipment that posts the information on a ledger card (a separate card for each individual's case). He stated that the information which the proposed bill would require is presently maintained by the clerk and there would be no cost increase to comply with this portion of the bill.

However, Mr. Freeman pointed out that the ledgers are generated by the first payment; generally not when the order is issued by the court requiring the support payment. He explained that this procedure exists because it has always been assumed that it was somebody else's responsibility, generally the District Attorney's, to enforce the court order.

Currently some counties review accounts and assist in enforcing the orders but there is no customary procedure followed in every county to keep up with the arrearage and send out letters to the supporting spouse in arrears. Mr. Freeman continued that any involvement by the Clerk's accounting personnel has generally been limited to an exception basis. By exception basis, he meant that if someone complains through the Clerk's office that they have not received their support payment (the complaint comes from the District Attorney's office, a Judge, the complainant, or else the prosecuting witness), the Clerk's office will then figure out the arrearage and prepare that information for the District Attorney so that a "Show Cause Order" can be issued by him to bring the defendant in to show cause why he should not be held in contempt of court by failing to comply with the judgment. Mr. Freeman assessed that the proposal would be somewhat expensive now and in the future due to the additional costs that would be required for employees and equipment.

Based on a sampling of eight counties, Mr. Freeman projected that presently thirty (30) per cent of the supporting spouses ordered to do so are not paying child support. Allowing three minutes to review the accounts in arrears, Mr. Freeman estimated that under the present system it would require 1200 hours a month of the Clerks' time to perform this task.

Mr. Freeman estimated that if this procedure to insure payment of child support were implemented, the costs for a thirty (30) per cent failure rate would include: $57,600.00 annually for first class postage, $400,050.00 to compensate thirty-one (31) new employees, and $9,840.00 for equipment (See Appendix K).

Judge Parker observed the great need to insure payment of child support. He stated that often women do not have the money to pay their rent, for food or clothes for the children. Many of these children also have learning disabilities and need psychological counseling and they do not have funds to hire an attorney. He stated that an attorney in Wake County will not take the case to increase child support or to collect the arrearage for less than $250.00 or $300.00 per case. Most of the women that are in court are not making that much money per week or month, in part because most work part-time. He pointed out the advantage of providing an automatic procedure to insure child support is that it would provide for those cases where women do not have the money to get into court. Primarily, Judge Parker expressed his concern for the children who have a right to be supported and who must rely on the mother who is the least able to enforce that right, to get into court and do something about it. He then predicted that if word gets out that if you do not pay your child support you automatically get back into court, the problems that the Clerks have to deal with would not be as great as they are now because most people do not want the hassle of going to court or dealing with the law. In summary, Judge Parker cited this bill as the most important of the twelve pieces of legislation to be considered by the Committee.

Wake County District Attorney, Mr. Randolph Riley stated that the

District Attorneys Association favors this legislation. He further noted that presently the motion to show cause why a person should not be held in contempt for failure to pay his child support is simply a continuation of the initial action and no further costs accrue. Therefore, he recommended that the Committee consider modifying the legislation to state that in the event this motion is served, additional costs will accrue (whether in District Court or Superior Court). Mr. Clifton Duke, Assistant Attorney General with the IV-D Program evaluated the advisability of assessing costs by pointing out that often the Defendant has a low income and might finally pay the dependents less due to the assessment of court costs.

Discussion of AN ACT TO ALLOW MODIFICATION ONLY AS TO INSTALLMENTS ACCRUING SUBSEQUENT TO THE MOTION TO MODIFY A JUDGMENT FOR CHILD SUPPORT. (See Interim Report, Legislative Library.)

Committee members discussed and supported the policies established by this proposed legislation. If this bill is passed by the General Assembly, counsel is urged to consider reviewing the current law addressing priorities of claims against estates to determine if any change will be needed there.

Discussion of AN ACT TO AMEND G.S. 50-13.6 TO REQUIRE PAYMENT OF COUNSEL FEES TO A PARTY ACTING IN GOOD FAITH IN ACTIONS FOR CUSTODY OR SUPPORT OF MINOR CHILD. (See Interim Report, Legislative Library.)

Former Wake County District Court Judge John Parker noted that separate hearings are being held increasingly for the payment of attorneys fees. This increases the costs to the dependent spouse and slows down the legal process. It is used as a device to force the wife into settlement because it is difficult to get attorneys fees under the

present law that exists. Often it takes five to seven hours of work for attorneys to get together the information needed, according to case law, to prove attorneys fees as required by the present G.S. 50-13.6. Secondly, once the Judge awards child support to the wife (often as a compromise gesture) the court will not award her attorneys fees, thus depriving the children of that amount of support. Although there are some cases in which the dependent spouse should pay attorneys fees, Judge Parker noted that in his experience, unequivocally three-fourths are there because of the male ego. He continued by stating that the woman has married a little boy that has never grown up and the family should not be forced to bear the cost of attorneys fees to defend the rights of the children. This proposed legislation would speak very succinctly to those two issues.

Mr. Gregory Malhoit, Director of East Central Community Legal Services of North Carolina, expressed concern that the payment of attorneys fees that are "substantially justified" may allow too many defendants to get out of paying attorneys fees. He recommended awarding attorneys fees to the prevailing party.

Discussion of TWO BILLS TO INCREASE THE SANCTION IMPOSED ON THOSE WHO FAIL TO FULFILL THEIR CHILD SUPPORT OBLIGATIONS. (See Interim Report, Legislative Library.)

Mr. Duke explained that the bill amending G.S. 14-322(f) would enable a judge to increase the penalty on those who fail to fulfill their child support obligations in a criminal action from six months to two years. He continued that the earlier penalty had been reduced from two years to six months as a means of avoiding the cost of providing

counsel. Mr. Duke testified that this is no longer the determinate factor. Because he has been involved with cases in which the judge expressed frustration in handling criminal cases without a greater sanction to assure support payments, he recommended this legislative concept during the previous meeting. The proposed legislation amending Chapter 49 would allow the same latitude in imposing penalties in bastardy proceedings. Finally, he stated that judges have commented it is helpful if sanctions of the criminal law reflect the seriousness of how society views a particular crime.

Discussion of AN ACT TO REWRITE G.S. 49-4 TO ALLOW THE INSTITUTION OF THE PROSECUTION OF A REPUTED FATHER OF AN ILLEGITIMATE CHILD ANY TIME BEFORE THE CHILD ATTAINS THE AGE OF EIGHTEEN (18) YEARS. (See Interim Report, Legislative Library.)

Mr. Duke testified that the North Carolina Court of Appeals struck down a similar statute which applied to civil actions. The court found the statutory periods imposed to be a denial of equal protection because there existed no limit on support actions on behalf of legitimate children until they were eighteen years of age. Also, he noted that the present law imposes an aspect of sex discrimination in that the time limit imposed within which to prosecute the mother is much greater than the time during which the putative father may be prosecuted.

Discussion of TWO BILLS TO CHANGE THE BURDEN OF PROOF WHEN ESTABLISHING PATERNITY. (See Interim Report, Legislative Library.)

Mr. Duke commented that he believed North Carolina to be the only state in this country to maintain that paternity must be established

"beyond a reasonable doubt" in civil cases. He also believes that there exists an analogy with terminating parental rights and establishing parentage and parental obligations. He stated that the U.S. Supreme Court has ruled that the lowest civil standard may be applied when terminating parental rights and he asserted that this standard should be applied when establishing parental rights.

Mr. Duke urged that once the standard "clear and convincing" is adopted for civil paternity actions, the application of the outcome of the civil proceeding in criminal actions would require that the "clear and convincing" standard be applied to criminal cases. Once the "clear and convincing" standard would be applied to determine paternity, then application of the "beyond a reasonable doubt" standard would be made to the other elements necessary to establish willful non-support.

Mr. Malhoit expressed his concerns regarding changing the standard of proof in a criminal case. He noted that even if courts have ruled that the issue of paternity in a criminal case is incidental to the issue of non-support, it still is the most important part of a criminal case. He recommended that the committee request an Attorney General Opinion on whether the North Carolina Constitution can allow a standard of proof less than "beyond a reasonable doubt" in a criminal case. Also, the lack of blood grouping tests that are provided in criminal cases is also a major concern of Mr. Malhoit's. He asserted that non-scientific evidence can be introduced in these proceedings that will show the possibility of paternity with a 99.9 per cent degree of accuracy but presently those tests are only available to defendants who pay for them. If the defendant happens to be indigent he is not

going to receive the benefit of those tests. Mr. Malhoit continued that if he is not going to receive the benefit of those tests then he would have difficulty removing the protection of the "reasonable doubt" standard which provides a greater degree of protection for these defendants. However, he concluded that if this Committee and the General Assembly were to enact a provision that required the provision of these blood tests in every case, regardless of the financial status of the defendant, then it seems reasonable that a "clear and convincing" standard that is proposed here would be fair. He added, there is a Supreme Court decision that came down a year ago on a statute in North Carolina that held that it was unconstitutional not to provide these blood tests to indigent defendants and he urged the Committee to consider this legislation in addition to the proposed provisions.

Finally, citing ways in which the costs of the test could be paid, Mr. Malhoit noted that if the defendant were found to be the father then he could be ordered to pay the cost as part of the support obligation. Also, in many cases the mother of the children is a welfare recipient and medicaid can pay for as much as two-thirds of the cost of blood tests. After all, he warned, if the wrong person is determined to be the father of the child by mistake, he will not make the support payments.

Mr. Duke commented that he felt that if the defendant were indigent and if the case were decided in North Carolina under the U.S. Supreme Court opinion cited, it appears to him that the indigent defendant would have a right to the test. He also thought that the

test is important objective evidence that does pair with lowering the burden of proof to a "clear and convincing" standard.

Discussion of AN ACT TO AMEND G.S. 14-322 TO PERMIT GARNISHMENT OF UP TO FORTY PER CENT (40%) OF THE WAGES FOR FAILURE TO PROVIDE CHILD SUPPORT. (See Interim Report, Legislative Library.)

Mr. Duke initiated the comments by asserting that garnishment is an exceedingly effective remedy. Garnishment provisions for child support have been in place since the 1979 legislature. In response to a question, he explained that for the IV-D Program garnishment results in an order directed to the employer to deduct from the employee's wages a specified amount which he pays to the Clerk of Court. The Clerk then pays this amount to the creditor.

In Mr. Riley's estimation, he commented that the Committee could not do anything to provide more movement in the collection of judgments than to enact this provision. In his view it is well worth whatever effort the mechanics require.

Discussion of THREE AMENDMENTS TO THE EQUITABLE DISTRIBUTION OF MARITAL PROPERTY ACT.

The first bill discussed, AN ACT TO AMEND THE EQUITABLE DISTRIBUTION OF MARITAL PROPERTY ACT OF 1981 TO INCLUDE THE INCOME FROM SEPARATE PROPERTY AND INCREASE IN VALUE OF SEPARATE PROPERTY WHICH ACCRUES DURING THE MARRIAGE AS MARITAL PROPERTY, addresses the issue of whether income from separate property acquired during the marriage should be treated as marital property and subject to division by the court. (See Interim Report, Legislative Library.) Senator Marvin explained that the treatment of this property as separate property was not in the

original bill, but the enacted language treating income from separate property as separate property resulted from a compromise to insure passage of the bill.

Ms. Jane Atkins, representing the North Carolina Association of Women Attorneys expressed the Association's support of this amendment and discussed the philosophy of equitable distribution.

Secondly, the Committee considered AN ACT TO AMEND THE EQUITABLE DISTRIBUTION OF MARITAL PROPERTY ACT OF 1981 TO INCLUDE PENSION RIGHTS AS MARITAL PROPERTY. (See Interim Report, Legislative Library.)

Ms. Atkins emphasized the importance of this issue in that sometimes one of the major assets of a family is its retirement benefits. She stated that if an older couple is divorced as retirement age approaches, then without having the retirement benefits included, the dependent spouse cannot reach very much under equitable distribution.

The third bill, AN ACT TO AMEND EQUITABLE DISTRIBUTION OF MARITAL PROPERTY ACT OF 1981 TO PREVENT THE UNAUTHORIZED DISPOSAL OF MARITAL PROPERTY was cited as the most urgently needed of the three amendments. (See Interim Report, Legislative Library.) Because, according to the equitable distribution law the distribution cannot take place until after the divorce is granted, there is concern that a spouse will dispose of the marital property during the time the spouses are separated. Ms. Atkins commented that the single biggest problem of equitable distribution involves a spouse hiding assets.

Discussion of HOUSE BILL 67 (TENANCY BY THE ENTIRETY). (See Interim Report, Legislative Library.)

Ms. Miriam Dorsey, Director of the Council on the Status of

Women, questioned the estimated two million dollar loss in revenue to the State, which was cited to the Senate Ways and Means Committee and the explanation given her why the bill was not reported favorably by the Committee. The fiscal note prepared for legislators explained that this loss would result from the fact that if HB 67 passed, the State would tax one-half of the rental income held in the entirety to each spouse rather than tax it all at the generally higher rate to the husband. This law arises from the common law whereby the husband controlled all the rents and profits and the wife had no control over the property. Ms. Dorsey stated that the bill has passed the House and that thousands of women across the state are working to promote its passage. She further reported to the Committee that the North Carolina Home Extension Group (composed of 25,000 homemakers) along with the North Carolina Center for Women and the Law are urging the passage of this legislation. Also, the North Carolina Extension Homemakers has requested a public hearing on the bill on June 9, 1982.

In response to a specific request from the Committee, Ms. Jane Patterson, Secretary of the Department of Administration, appeared to respond to the Committee's questions concerning the Council on the Status of Women. She explained that the Council on the Status of Women was created as the Commission on the Status of Women in 1963 by Executive Order of Governor Terry Sanford. The statutory basis authorizing its existence was enacted in 1965 and in 1972 funds were appropriated to hire a staff. After several name changes it was renamed the North Carolina Council on the Status of Women in 1975. Additional responsibilities were given to the Council by the 1977 and 1979 General Assemblies.

The Council was once composed of seven members but is now composed of twenty members who are appointed by the Governor. The membership includes homemakers and business people and reflects different racial and geographic groups. Members serve two-year terms, which are staggered.

The Council's primary purpose is to advise the Governor, the North Carolina Legislature and principal State agencies concerning the education and employment of women in North Carolina. The Council works to collect and distribute information concerning women's needs and to coordinate efforts to meet the needs of women on the county and regional level. Specifically, the Council has established task forces on Women and North Carolina Law, the Needs of Minority Women and Women and Economic Development. Other ongoing task forces are those on Sexual Assault and the Governor's Task Force on Domestic Violence (See Appendix L).

As presiding Cochairperson, Senator Marvin recognized Representative Wilma Woodard who made the following statement in the form of a motion:

> I move that this bill to ratify the Equal Rights Amendment be included as part of the report of this Committee. I further move that this Committee recommend that this bill be enacted by the General Assembly no later than June 30, 1982. I further move that if there are any technical errors, defects or problems of a technical nature not affecting the substance of the bill, that this Committee authorize the Director of the Legislative Drafting Division

to make any necessary changes to put this bill in the proper form to be introduced and acted upon by the General Assembly without further action by this Committee. (See Appendix M for ERA).

The Committee discussed the timing of the motion and it was pointed out that a so-called "Gentleman's Agreement" had been made by some Senators not to bring up the ERA issue again during the 1981-82 Session of the General Assembly. Representative Jones stated his objection to the motion and his concern regarding the controversy the issue would arouse and the time this would consume in the Short Session.

Representative Ruth Easterling and Senator Gerald Hancock voiced their approval of the motion and explained their reasons for believing this Committee is obligated to recommend ratification in the June Session of the General Assembly.

It was then concluded that the ERA profoundly affects the Committee's charge to address the social, economic, and legal rights of women and Representative Woodard's motion was passed with only two negative votes.

Finally, the Committee centered its attention on funding necessary to continue the work begun with the passage of the Domestic Violence Act of 1979. Ms. Dorsey stated that 14 shelters for victims of domestic violence have been established in this state. However, this start was from seed money from the federal government. Because this money is no longer available, Representative Brennan has introduced legislation providing for direct appropriations to develop

these programs and continue to support those established (see Interim Report, Legislative Library). Ms. Dorsey also described the situation which is commonly described by law enforcement officers who testify that often there exists no place to take people who are victims.

With a commitment from the leadership to seek additional funding for the Committee to continue its examination of the economic, social and legal needs facing the women of North Carolina, the Committee adjourned.

September 23, 1982 Meeting

Following its interim report to the 1982 Short Session of the 1981 General Assembly, the Committee resumed its work with the first of its three newly-scheduled meetings. (For Interim Report, Legislative Library.)

Ms. Myressa Schoonmaker, Chairperson of the Legislative Committee of the Family Law Section of the North Carolina State Bar Association and Vice Chairperson of the Family Law Section of the North Carolina Center for Laws Affecting Women, Inc., appeared before the Committee reporting legislation endorsed by the Legislative Committee of the Family Law Section. Two bills receiving this endorsement were issued in the Women's Needs Committee's interim report. These were:

1. AN ACT TO REWRITE G.S. 49-4 TO ALLOW THE PROSECUTION OF A REPUTED FATHER OF AN ILLEGITIMATE CHILD ANY TIME BEFORE THE CHILD ATTAINS THE AGE OF 18 YEARS.
2. AN ACT TO AMEND THE EQUITABLE DISTRIBUTION OF MARITAL PROPERTY ACT OF 1981 TO PREVENT THE UNAUTHORIZED DISPOSAL OF MARITAL PROPERTY. Suggested change in the language of this bill is: "upon the filing of any action for equitable distribution or for divorce as provided in Chapter 50."

She also noted that two bills proposed by the Legislative Committee of the Family Law Section which have received endorsement by the Bar Association are:

1. A BILL TO BE ENTITLED AN ACT TO REPEAL G.S. 50-16.6(a) TO PLACE ADULTERY ON EQUAL GROUNDS WITH OTHER ACTS OF MISCONDUCT.
2. A BILL TO BE ENTITLED AN ACT TO AMEND G.S. 50-16.5(a) TO REQUIRE THE DETERMINATION OF AMOUNT OF ALIMONY TO INCLUDE INCOME TAX CONSEQUENCES.

Finally, Ms. Schoonmaker stated that there were six further proposals presently being researched by her Committee as follows:

1. An accident and health insurance policy, which terminated upon divorce or death of the insured spouse, would be required to contain a conversion privilege for the divorced or widowed spouse without proof of insurability. That was endorsed by the Family Law Section with the amendment that would actually require that conversion rights be to a group rate.
2. To define the reconciliation and resumption of marital relations as more than sexual intercourse between the parties and to deal with the effect of such reconciliation and resumption on terms of prior separation agreement. That was endorsed by the Family Law Section.
3. A change in the statutes imposing the responsibility of parents for legal obligations for child support until the child completes high school or reaches the age of 19 or is otherwise emancipated, whichever first occurs.
4. The Equitable Distribution of Marital Property Act of 1981 be amended to include pension rights as marital property.
5. Statutory language be provided which would give legislative authority for judicial consideration of the divorce factor of educational, professional and career aspirations in determining the amount and the terms of alimony.
6. To statutorily prohibit discrimination in the amount of medical and accident insurance policy premiums, policy benefits and coverage and policy terms and conditions, exclusive of maternity coverage, based upon the sex of the insured.

Following Ms. Schoonmaker's presentation of legislation endorsed and under consideration, Ms. Miriam Dorsey, Director of the Council on the Status of Women, proposed legislative action in several additional areas. She identified the need to fund Spouse Abuse Centers. Citing the newly-enacted, tenancy by the entirety legislation, she noted its limited application to those tenancies created after January 1, 1983; while imposing one-half of the tax liability upon the wife in all cases, even in those created prior to January 1, 1983 (in which she is not entitled to one-half the rents, profits, or right to possess and manage it). Ms. Dorsey also requested input concerning the October of 1983 Women and the Economy Conference (sponsored by the Governor's Office and Department of Administration) and received input as well as the Committee's endorsement of the Conference.

The Vice President of the North Carolina Association of Women Attorneys, Ms. Gwyn Davis, and a member, Ms. Jane Finch, recited issues for which the Association urged legislative study and the passage of corrective legislation. These subjects included: (1) equitable distribution, (2) day care, (3) State ERA, (4) changing Aid to Families with Dependent Children (AFDC) guidelines, (5) alimony, (6) tenancy by the entirety law, (7) condition of women in prison, (8) spouse abuse programs and (9) child support enforcement legislation.

Urging the passage of legislation which would expand the statute of limitations allowing cases to be heard determining criminal bastardy to establish paternity and consequently child support obligations, appeared Mr. Mark Sullivan, a private Raleigh Attorney (Remarks, see Appendix N). Additionally, Ms. Chris Sutton, Director of the Wake County Child Enforcement Agency supported Mr. Sullivan's position and testified to the

need to establish paternity and child support obligations to take these children off public assistance. She further echoed Mr. Sullivan's argument that the scientific blood test eliminates arguments for a short statute of limitations because it so accurately identifies the parent, whenever administered. She also explained the work of the North Carolina Child Support Council and its offer to assist the Committee as it develops legislation in this area.

In addition to instructions to the staff to obtain information for its next meeting, the Committee closed its meeting with a discussion of its study priorities.

November 9, 1982 Meeting

During this meeting the Committee was primarily concerned with the process of acquiring information pertinent to the subjects it identified for study during its September meeting. These included child support enforcement, tenancy by the entirety rights, alternatives to the incarceration of women, equitable insurance rates and coverage for women, funding to assist victims of spouse abuse, legal domicile, grounds for divorce, setting alimony after considering tax consequences, and the 1983 Women and the Economy Conference. The Committee's deliberations began with a presentation describing the Child Support Enforcement Program in North Carolina and its consideration of legislation to facilitate the payment of child support.

Dr. Andrew Dobelstein, Professor of Social Policy and Social Work at the University of North Carolina, (Chapel Hill), emphasized the tremendous need to insure the payment of child support for the benefit of the women and their children. (See Appendix O for his remarks).

The Committee followed this address with a review of child support enforcement legislation. Two bills, AN ACT TO AMEND CHAPTER 50 TO ESTABLISH PROCEDURES TO INSURE PAYMENT OF MAINTENANCE OR CHILD SUPPORT AND AN ACT TO AMEND CHAPTER 15-A TO ESTABLISH PROCEDURES TO INSURE PAYMENT OF MAINTENANCE OR CHILD SUPPORT, (the first with civil and the second with criminal application) were considered and the staff was instructed to insert a cost recovery section. Additionally, the Committee directed staff to develop a procedure in the Chapter 50 legislation utilizing the services of the private bar to represent the custodial parent. Other bills reviewed included:

(1) AN ACT TO AMEND G.S. 50-13.7 TO ALLOW MODIFICATION ONLY AS TO INSTALLMENTS ACCRUING SUBSEQUENT TO THE MOTION TO MODIFY A JUDGMENT OR AN ORDER FOR CHILD SUPPORT.

(2) AN ACT TO REWRITE G.S. 49-4 TO ALLOW THE INSTITUTION OF THE PROSECUTION OF A REPUTED FATHER OF AN ILLEGITIMATE CHILD ANY TIME BEFORE THE CHILD ATTAINS THE AGE OF EIGHTEEN YEARS.

(3) AN ACT TO AMEND G.S. 14-322 TO PERMIT GARNISHMENT OF UP TO FORTY PER CENT (40%) OF WAGES FOR WILLFUL FAILURE TO PROVIDE CHILD SUPPORT.

(4) AN ACT TO AMEND G.S. 50-13.6 TO REQUIRE PAYMENT OF COUNSEL FEES TO PARTY ACTING IN GOOD FAITH IN ACTIONS FOR CUSTODY OR SUPPORT OF MINOR CHILD.

(5) AN ACT TO AMEND G.S. 49-14 TO CHANGE THE BURDEN OF PROOF IN CIVIL ACTIONS TO ESTABLISH PATERNITY.

Following the discussion of this legislation, Mrs. Jane Patterson, Secretary of the Department of Administration, addressed the Committee on equal pay for equal work, equal pay for comparable work, comparable worth, women and the economy and other problems. (See her remarks [Appendix P] and a report from Mr. Harold Webb, Director of State Personnel, concerning the patterns of pay in North Carolina State Government. (Memorandum and Executive Summary, Appendices Q and R.)

In response to the Committee's request, an Attorney General Opinion had been requested and Ms. Ann Reed, Special Deputy Attorney General, discussed the constitutionality of newly-enacted, G.S. 39-13.6(c) and a proposed amendment to this act redefining the tenancy by the entirety law in this State. Two questions were raised and the first, regarding the change to the income tax provision, is as follows:

Is G.S. 39-13.6(c) constitutional as it now appears, in that it provides that beginning January 1, 1983, wives will be taxed for one-half (1/2) the value of rents and profits from property owned by them with their husbands as tenants by the entirety, in spite of the fact that, except for conveyances entered into after January 1, 1983, the right to these rents and profits is exclusively the husbands'?

Ms. Reed explained that because G.S. 39-13.6(c) imposes an income tax on a wife for income to which she is not legally entitled, this portion of the statute could be challenged successfully (as being unconstitutional). The second question reads as follows:

Can an amendment to G.S. 39-13.6, which provides equal right to rents and profits for both spouses, constitutionally be made applicable to conveyances entered into before the effective date of the amendment?

In the analysis of this question, Ms. Reed discussed two issues arising from this second question. They were:

(1) Does a husband have a vested right to the rents and profits from entireties properties conveyed before January 1, 1983, or is his right merely a contingent right?

(2) If there is such a vested right in the husband, is it an invalid gender-based classification?

After discussing these issues she concluded that "[b] based on our examination of the available authorities, we believe our courts are likely to find that retrospective application of the statute to all conveyances is valid." (See Attorney General Opinion of November 8, 1982, Appendix S).

The Committee received additional testimony on AN ACT REGARDING THE COST OF BLOOD TESTS IN CASES IN WHICH THE QUESTION OF PARENTAGE ARISES concerning the cost of implementation of this legislation and comments from other speakers concerning a myriad of other issues.

Following a presentation on alternatives to incarceration for women, the Committee examined insurance laws affecting women. The Committee decided to consider legislation insuring a wife's right to continuation and conversion following the death of or divorce from a spouse covered under a group policy. Another speaker cited the practice of differential insurance rates for women and men as discriminatory to women and that this practice cannot be actuarily justified (Appendices T and U).

Ms. Miriam Dorsey, Director of the Council on the Status of Women, urged permanent funding to insure the continuation of spousal abuse victim centers. She also cited problems arising from the need for a woman to be able to establish separate legal domicile.

Following additional comments on general topics of interest to the Committee, the Committee planned to finalize its work during its next meeting.

November 23, 1982 Meeting

During its final meeting, the Committee reviewed numerous proposed drafts of legislation. Most of this legislation was recommended for passage during the upcoming Session of the General Assembly and is contained in this report.

The first bill was directed at the issues arising from the enactment of the tenancy by the entirety legislation (1981 Session, Short Session, 1982) as Chapter 1245 of the Session Laws of North Carolina. This proposed legislation is entitled "AN ACT TO AMEND CHAPTER 39 TO FURTHER EQUALIZE BETWEEN MARRIED PERSONS THE RIGHT TO INCOME, POSSESSION, AND CONTROL OF PROPERTY OWNED CONCURRENTLY BY MARRIED PERSONS IN TENANCY BY THE ENTIRETY." Not only would a wife be entitled to one-half of the right to manage this property and to receive one-half of its profits if the tenancy were created after January 1, 1983, but this bill would make this expansion of a wife's rights apply to all tenancies, whenever created. Additionally, it would correct what the Attorney General cites as a constitutional deficiency in the new law by requiring the husband to pay all of the taxes on profits from tenancies created prior to January 1, 1983 but derived from joint ownership between January 1, 1983 until the ratification date of this propposed legislation. Once this legislation is enacted, then it imposes a tax on the wife for one-half of all profits; but this appears constitutionally permissible because she would then be entitled to one-half of the income.

Regarding Amendments to Chapters 50 and 15A...TO ESTABLISH PROCEDURES TO INSURE PAYMENT OF CHILD SUPPORT, Mr. Franklin Freeman, Director of the Administrative Office of the Courts, suggested specific changes in the legislation (Remarks, Appendix V). He expressed the need

for increased automation of equipment for the clerks of court throughout the State and recommended that this funding would supplant any need for cost recoupment in the proposed legislation. Mr. James L. Carr, Clerk of Court of Durham County, while representing the North Carolina Clerks of Court Association, endorsed the proposed legislation contingent upon receipt of additional funding by the clerks and tying the effective date onto acquisition of the equipment to aid the implementation of this legislation.

The Committee proceeded to act to recommend the passage of the following legislation dealing with child support enforcement:

(1) AN ACT TO AMEND G.S. 49-4 TO ALLOW THE INSTITUTION OF THE PROSECUTION OF THE REPUTED FATHER AS WELL AS THE MOTHER OF AN ILLEGITIMATE CHILD ANY TIME BEFORE THE CHILD ATTAINS THE AGE OF EIGHTEEN (18) YEARS.

(2) AN ACT REGARDING THE COST OF BLOOD TESTS IN CASES IN WHICH THE QUESTION OF PARENTAGE ARISES.

(3) AN ACT TO AMEND G.S. 50-13.7 TO ALLOW MODIFICATION ONLY AS TO INSTALLMENTS ACCRUING SUBSEQUENT TO THE MOTION TO MODIFY A JUDGMENT OR AN ORDER FOR CHILD SUPPORT.

(4) AN ACT TO AMEND G.S. 50-13.6 TO REQUIRE PAYMENT OF COUNSEL FEES TO PARTY ACTING IN GOOD FAITH IN ACTIONS FOR CUSTODY OR SUPPORT OF MINOR CHILD.

(5) AN ACT TO AMEND G.S. 49-14 TO CHANGE THE BURDEN OF PROOF IN CIVIL ACTIONS TO ESTABLISH PATERNITY.

Also recommended was A JOINT RESOLUTION TO PERMIT THE LEGISLATIVE RESEARCH COMMISSION TO STUDY CHILD SUPPORT AND HOW TO ESTABLISH MORE EFFECTIVE AND EFFICIENT PROCEDURES TO INSURE ITS COLLECTION.

The Committee voted to defer action on three other proposed bills relating to child support. They were:

(1) AN ACT TO AMEND G.S. 49-7 TO CHANGE THE BURDEN OF PROOF IN CRIMINAL ACTIONS TO ESTABLISH PATERNITY.

(2) AN ACT TO AMEND G.S. 14-322 TO INCREASE THE SANCTIONS IMPOSED ON THOSE WHO FAIL TO FULFILL THEIR CHILD SUPPORT OBLIGATION.

(3) AN ACT TO AMEND G.S. 49-8 TO INCREASE THE SANCTIONS IMPOSED ON THOSE WHO FAIL TO FULFILL THEIR CHILD SUPPORT OBLIGATIONS.

Mr. William K. Hale, Staff Attorney with the Legislative Services Office, gave an overview of the law concerning continuation and conversion options available to a spouse following the death of or divorce from his or her spouse who was or is covered under a group insurance policey. Clarifying the present G.S. 58-254.57 is proposed legislation entitled "AN ACT TO CLARIFY A PROVISION IN THE GROUP HEALTH INSURANCE CONTINUATION AND CONVERSION PRIVILEGES LAW." This Act would explicitly provide the option set out in G.S. 58-254.57 to a divorced spouse, thus enabling that individual covered by a group health insurance policy to convert to another policy. (Mr. Hale interpreted the present law to provide this option but this proposed legislation would make this statute clearer). Additionally, the Committee approved a technical amendment entitled, "AN ACT TO MAKE A TECHNICAL AMENDMENT TO THE GROUP HEALTH INSURANCE CONTINATION AND CONVERSION PRIVILEGES LAW." This bill would make it clear that continuation and conversion privileges would be available to persons covered by policies renewed as well as by existing policies or by those which are amended. (Again, Mr. Hale described this as his interpretation of the present law but this bill would make this

statute clearer.) Furthermore, the Committee directed staff to draft legislation for its recommendation to the Legislative Research Commission creating the right of a divorced or widowed spouse to continue under the group plan he or she was previously insured under. Finally, realizing that numerous issues regarding insurance were not studied, the Committee recommended A JOINT RESOLUTION TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY SEX DISCRIMINATION IN INSURANCE.

The Committee recognized the need to address another issue, changes in Equitable Distribution of Marital Property Act of 1981. Despite its inclusion of three amendments to this Act for study in its Interim Report, the Committee concluded it only had enough time available to carefully study one pressing issue, the unauthorized disposal of marital property. The Committee then recommended passage of AN ACT TO AMEND EQUITABLE DISTRIBUTION OF MARITAL PROPERTY ACT OF 1981 TO PREVENT THE UNAUTHORIZED DISPOSAL OF MARITAL PROPERTY.

Turning to two bills presented to the Committee for its endorsement from the Family Law Section of the North Carolina Bar Association, the Committee voted, after a short discussion, to endorse, AN ACT TO AMEND G.S. 50-16.5(a) TO REQUIRE THE DETERMINATION OF AMOUNT OF ALIMONY TO INCLUDE INCOME TAX CONSEQUENCES.

Citing a January 21, 1982 Attorney General Opinion, requested by Mr. B. W. Brown, Director of the Individual Income Tax Division, North Carolina Department of Revenue, Committee Counsel discussed the designation of separate legal domicile for married women for tax purposes (Appendix W). She reported this Opinion concludes that a woman who is married to a North Carolina domiciliary but resides in a state other than

North Carolina and intends to remain indefinitely in such other state cannot be conclusively presumed to be domiciled in North Carolina within the meaning of G.S. 105-135(13). However, because there appears to be enough question to prompt inquiry, the Committee voted to recommend legislation to clarify the law entitled "AN ACT TO CLARIFY A MARRIED WOMAN'S DOMICILE FOR TAX PURPOSES."

Reviewing the issue of separate legal domicle for tuition purposes, Counsel cited G.S. 116-143.1 which sets out the provisions for determining resident status for tuition purposes. More specifically, G.S. 116-143.1(f)(1) states that to determine the domicile of a married person:

> (1) No person shall be precluded solely by reason of marriage to a person domiciled outside North Carolina from establishing or maintaining legal residence in North Carolina and subsequently qualifying or continuing to qualify as a resident for tuition purposes.

While this provision only opens the door to establish separate legal domicile for tuition purposes, the Committee determined, due to time limitations, its study of this and other questions related to separate legal domicile could not be continued.

Separate legal domicile, equitable distribution, alternatives to incarceration for women, and equitable pay were among the topics which Committee members wished to continue to study but were precluded from doing so by limited time and resources. Consequently, the Committee voted to recommend A JOINT RESOLUTION TO PERMIT THE CONTINUANCE OF THE WORK OF THE LEGISLATIVE RESEARCH COMMISSION'S STUDY ON THE ECONOMIC,

SOCIAL AND LEGAL PROBLEMS AND NEEDS OF WOMEN AS BEGUN UNDER RESOLUTION 61 OF THE 1981 SESSION.

Concluding its work on child support enforcement, the Committee voted to recommend AN ACT TO AMEND G.S. 14-322 TO PERMIT GARNISHMENT OF UP TO FORTY PER CENT (40%) OF WAGES FOR WILLFUL FAILURE TO PROVIDE CHILD SUPPORT. It was informed, during its discussion, that the North Carolina Merchants Association would not oppose this bill. Additionally, to mollify the opposition of some employers, the Committee instructed Counsel to amend the bill to add a one dollar ($1.00) fee to reimburse employers for garnishing employees' salaries.

In addition, the Committee voted to request that spousal and child abuse funding be contained in the budget as a "line item."

Also, the Committee expressed its support of the Council on the Status of Women, recommending that it continue functioning with its present level of staff and funding.

The Committee adjourned with the knowledge that many additional areas of concern relating to the economic, social and legal needs and problems of women in North Carolina remain and that they need to be addressed with further study and recommended solutions.

F I N D I N G S

FINDINGS

After having reviewed the information presented at its meetings and by pursuing the specific topics mandated for study by the 1981 General Assembly, the Committee studying the economic, social and legal problems and needs of the women of the State of North Carolina makes the following findings:

1. Poverty in North Carolina is becoming increasingly feminized. Although most households are headed by men, fifty per cent of the households in North Carolina below the poverty level are headed by women. As women are getting older they are getting poorer. Additionally, with the reduction in federal financial assistance, women, especially women with dependent children, will experience a reduction in their already meagre income.

2. Women generally fill the lowest-paying positions in the work force. Generally women fill the lowest-paying jobs and are disproportionately absent from the management level of the work force. Government studies indicate that women of comparable skills, experience and education are paid $.59 for every $1.00 a man receives for performing the same job.

3. Not only is there great evidence that women are denied equal pay for equal work but they also appear to be denied comparable pay for comparable worth. Once the

premise is recognized that individuals should receive pay according to the education, experience and skill required for the job, it is clear that inequities exist when women are paid less than a man performing the same job. Also, studies indicate that positions that are typically filled by women are salaried at a lower rate than jobs typically filled by men requiring a comparable level of education, experience, and skill.

4. Special Assistance is needed for women to better enable them to enter the work force and particularly to have access to many higher-paying, nontraditional jobs. More and more women are finding themselves separated, widowed or divorced. This often places a woman in the position of changing from the role of homemaker to a competitor for jobs in a work force requiring specialized skills. These women are in need of support and encouragement to renew their self-esteem and to acquire the job skills necessary to enable them to care for themselves and their families. Emphasis should be placed on making the necessary education and job-training available to women in their community where many can continue to provide for their families.

5. Women are uniquely the subjects of violence, both as victims of rapes and objects of domestic violence. Testimony indicates that anywhere from fifty to eighty

per cent of all runaway girls have been abused by their fathers, surrogate fathers, brothers, etc. It is estimated that most cases of spousal abuse go unreported but the statistics are alarming. However, services for both victims of rapes and domestic violence may not be established as needed and those presently established may be reduced or eliminated due to the reduction in federal funds available for these services.

6. Women have special needs which are not being met. Women in rural areas or women who are minors or poor have greater problems acquiring access to health services. Teenagers are in particular need of sex education and counseling, as evidenced by the rising rate of teenage pregnancies.

7. Women, individually and as custodial parents, find that they are without insurance coverage for themselves and their families following a change in their marital status upon the death of or divorce from their spouses. Women are faced with the possibility of being unable to obtain insurance at any reasonable rate to cover a pre-existing condition due to the sometimes unilateral action of their spouses. Even more often women must pay the cost of much higher insurance premiums because coverage cannot be obtained at group rates and must be purchased much later in life.

8. Evidence indicates that the historical practice of requiring women to pay higher insurance rates than men cannot be actuarily substantiated and there is evidence to suggest that the actuarial tables themselves were developed reflecting sex bias. Testimony indicates that insurance companies use one lifespan for the purpose of setting premiums and use another lifespan for the purpose of paying out premiums. Additionally, more valid indicators, such as smoking, overweight, drinking and recklessness, are available to estimate an individual's lifespan other than gender Also, the actuarial tables themselves are developed based on the selection of information which, some charge, reflects sex bias.

9. The cost, in terms of human suffering, due to the absence of sufficient means to provide for the dependent spouse and children of the family, is great and negatively impacts the quality of life in this state. The apparent effects resulting from this situation range from inadequate supervision of the children (custodial spouse must work and is without means to provide adequate child care) to unsanitary and unhealthy living conditions. The stress and general psychological harm resulting from the absence of adequate financial support and/or the sporadic receipt of support is difficult to quantify but evident.

10. Women not receiving their court-ordered child support often do not utilize the court system because they are ignorant of the process, intimidated by their present or former

spouse, or do not have the means to hire a lawyer to insure payment of child support. In most cases the dependent spouse is unfamiliar with the court system and, if not receiving child support, is even less able to engage the services of an attorney to proceed with her (or his) case. Evidence indicates a great need to provide prompt assistance to the dependent spouse whose court-ordered child support is in arrears because, in many cases not only is the family immediately unable to pay its bills, but the larger the arrearages grow, the more difficult, if not impossible, they are to collect. Additionally, nonpayment of child support is used as a method to harass the dependent spouse who is often informed she or he should not pursue the children's right to support or her custodial status will be challenged and her general welfare may be threatened.

11. The implementation of an administrative procedure to insure the payment of child support should save taxpayers many times the cost of establishing it. Citing the cost of Aid to Families with Dependent Children, other welfare programs, pensions, and community support services which would be sharply reduced if child support payments were collected, the Committee calculated that the establishment of an administrative court procedure to insure payment of child support would return significantly more income than the start-up investment would require.

12. Full legal rights and control over a woman's property is

equitable and necessary to protect her right to her property. The inability of North Carolina wives to assert equal control over property which they own with their husbands (as tenants by the entirety) results from a common law precedent that assumed women are uneducated and incapable of managing their property. Not only is this policy long outmoded but it limits a woman's rightful access to her share of control, rents and profits of her own property.

RECOMMENDATIONS
TO THE 1983
GENERAL ASSEMBLY OF NORTH CAROLINA

RECOMMENDATIONS

I. The Committee studying the economic, social and legal problems and needs of women of the State of North Carolina respectfully submits the following recommended proposals for consideration by the Legislative Research Commission and the 1983 Session of the General Assembly:

A. That sufficient spousal and child abuse program funding be included in the continuation or base budget.

B. That the North Carolina General Assembly recognizes the economic needs of women and endorses the Conference on Women and the Economy which will be sponsored by the Governor and the Department of Administration during October, 1983.

C. That the authority, membership, and staff of the North Carolina Council on the Status of Women should be continued at their present levels.

II. The Committee studying the economic, social and legal problems and needs of the women of the State of North Carolina respectfully submits the following recommended legislation for consideration by the Legislative Research Commission and the 1983 Session of the General Assembly:

A. AN ACT TO AMEND CHAPTER 50 OF THE GENERAL STATUTES TO ESTABLISH PROCEDURES TO INSURE PAYMENT OF CHILD SUPPORT (Appendix L-1).

B. AN ACT TO AMEND CHAPTER 15A OF THE GENERAL STATUTES TO ESTABLISH PROCEDURES TO INSURE PAYMENT OF CHILD SUPPORT (Appendix L-2).

C. AN ACT TO AMEND G.S. 49-4 TO ALLOW THE INSTITUTION OF THE PROSECUTION OF THE REPUTED FATHER AS WELL AS THE MOTHER OF AN ILLEGITIMATE CHILD ANY TIME BEFORE THE CHILD ATTAINS THE AGE OF EIGHTEEN (18) YEARS (Appendix L-3).

D. AN ACT REGARDING THE COST OF BLOOD TESTS IN CASES IN WHICH THE QUESTION OF PARENTAGE ARISES (Appendix L-4).

E. AN ACT TO AMEND G.S. 50-13.7 TO ALLOW MODIFICATION ONLY AS TO INSTALLMENTS ACCRUING SUBSEQUENT TO THE MOTION TO MODIFY A JUDGMENT OR AN ORDER FOR CHILD SUPPORT (Appendix L-5).

F. AN ACT TO AMEND G.S. 14-322 TO PERMIT GARNISHMENT OF UP TO FORTY PER CENT (40%) OF WAGES FOR WILLFUL FAILURE TO PROVIDE CHILD SUPPORT (Appendix L-6).

G. AN ACT TO AMEND G.S. 50-13.6 TO REQUIRE PAYMENT OF COUNSEL FEES TO A PARTY ACTING IN GOOD FAITH IN ACTIONS FOR CUSTODY OR SUPPORT OF MINOR CHILD (Appendix L-7).

H. AN ACT TO AMEND G.S. 49-14 TO CHANGE THE BURDEN OF PROOF IN CIVIL ACTIONS TO ESTABLISH PATERNITY (Appendix L-8).

I. A JOINT RESOLUTION TO PERMIT THE LEGISLATIVE RESEARCH COMMISSION TO STUDY CHILD SUPPORT AND HOW TO ESTABLISH MORE EFFECTIVE AND EFFICIENT PROCEDURES TO INSURE ITS COLLECTION (Appendix L-9).

J. AN ACT TO AMEND EQUITABLE DISTRIBUTION OF MARITAL PROPERTY ACT OF 1981 TO PREVENT THE UNAUTHORIZED DISPOSAL OF MARITAL PROPERTY (Appendix L-10).

K. AN ACT TO AMEND CHAPTER 39 TO FURTHER EQUALIZE BETWEEN MARRIED PERSONS THE RIGHT TO INCOME, POSSESSION AND CONTROL IN PROPERTY OWNED CONCURRENTLY IN TENANCY BY THE ENTIRETY (Appendix L-11).

L. AN ACT TO MAKE A TECHNICAL AMENDMENT TO THE GROUP HEALTH INSURANCE CONTINUATION AND CONVERSION PRIVILEGES LAW (Appendix L-12).

M. AN ACT TO CLARIFY A PROVISION IN THE GROUP HEALTH INSURANCE CONTINUATION AND CONVERSION PRIVILEGES TO SURVIVING AND DIVORCED SPOUSES (Appendix L-13).

N. AN ACT TO PROVIDE EXTENDED GROUP HEALTH INSURANCE CONTINUATION PRIVILEGES TO SURVIVING AND DIVORCED SPOUSES (Appendix L-14).

O. A JOINT RESOLUTION TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY SEX DISCRIMINATION IN INSURANCE (Appendix L-15).

P. AN ACT TO CLARIFY A MARRIED WOMAN'S DOMICILE FOR TAX PURPOSES (Appendix L-16).

Q. AN ACT TO AMEND G.S. 50-16.5(a) TO REQUIRE THE DETERMINATION OF AMOUNT OF ALIMONY TO INCLUDE INCOME TAX CONSEQUENCES (Appendix L-17).

R. A JOINT RESOLUTION TO PERMIT THE CONTINUANCE OF THE WORK OF THE LEGISLATIVE RESEARCH COMMISSION'S STUDY ON THE ECONOMIC, SOCIAL, AND LEGAL PROBLEMS AND NEEDS OF WOMEN AS BEGUN UNDER RESOLUTION 61 OF THE 1981 SESSION (Appendix L-18).

RECOMMENDED LEGISLATION

SESSION 19 83

INTRODUCED BY:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND CHAPTER 50 OF THE GENERAL STATUTES TO ESTABLISH PROCEDURES TO INSURE PAYMENT OF CHILD SUPPORT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 50 of the General Statutes is amended by adding a new section to read as follows: "50-13.9 Procedure to insure payment of child support. --

(a) Upon its own motion or upon motion of either party, the court may order at any time that support payments be made to the clerk of court for remittance to the person entitled to receive the payments.

(b) The clerk of court shall maintain records listing the amount of payments, the date payments are required to be made, and the names and addresses of the parties affected by the order.

(c) The parties affected by the order shall inform the clerk of court of any change of address or of other condition that may affect the administration of the order. The court may provide in the order that a party failing to inform the court of a change of address within a reasonable period of time may be held in civil contempt.

(d) When a party fails to make a required payment of child support, in an amount equal to that which would accrue after thirty (30) days, the clerk of court shall certify the amount due and appoint an attorney to initiate proceedings for civil contempt pursuant to G.S. 5A-23. This attorney shall be appointed from a list to be maintained by the clerk of court of attorneys willing to voluntarily undertake this representation. That appointed attorney

shall represent a party only to resolve the issues of whether defendant shall be held in civil contempt and the attorney shall receive compensation as ordered by the presiding judge, to be paid by the defendant. Unless specifically approved by the court the appointed attorney shall not charge nor collect nor receive any fee from the party on whose behalf the proceedings are instituted.

(e) No provision contained in this section shall preclude the initiation of proceedings for civil contempt by a party with an interest in enforcing the order and that party may supply the name of an attorney willing to undertake enforcement in the particular case to be specified in writing by that party and that party's attorney, and in that particular case, the attorney shall be appointed.

(f) If the person obligated to pay support is beyond the jurisdiction of the court, the interested party may institute any other proceeding available under the laws of this State for enforcement of the duties of support and maintenance."

Sec. 2. This act shall become effective October 1, 1983 and implemented in every county of this State as funding is or becomes available to establish the procedures set out in this section.

SESSION 19 83

INTRODUCED BY:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND CHAPTER 15A OF THE GENERAL STATUTES TO ESTABLISH PROCEDURES TO INSURE PAYMENT OF CHILD SUPPORT.

The General Assembly of North Carolina enacts:

Section 1. General Statutes Chapter 15A is amended by adding a new section to read as follows: "15A-1344.1 Procedure to insure payment of child support. --

(a) When the court requires, as a condition of supervised or unsupervised probation, that a defendant support his dependents and meet other family responsibilities, the court may order at any time that support payments be made to the clerk of court for remittance to the person entitled to receive the payments.

(b) The clerk of court shall maintain records listing the amount of payments, the date payments are required to be made, and the names and addresses of the parties affected by the order.

(c) The parties affected by the order shall inform the clerk of court of any change of address or of other condition that may affect the administration of the order. The court may provide in the order that a defendant failing to inform the court of a change of address within a reasonable period of time may be held in violation of probation.

(d) When a defendant fails to make required payment of child support, in an amount equal to that which would accrue after thirty (30) days, the State shall initiate proceedings for revocation of condition of probation pursuant to Article 82 of Chapter 15A. The clerk of court shall certify the

amount due, notify the district attorney, and after the district attorney sets the matter for hearing, notify the defendant of the hearing date.

(e) If the person obligated to pay support is beyond the jurisdiction of the court, the interested party may institute any other proceeding available under the laws of this State for enforcement of the duties of support and maintenance."

Sec. 2. G.S. 15A-1343 is amended by inserting a new subdivision following G.S. 15A-1343 (16b) to read as follows:

"(16c) Satisfy child support and other familial obligations as required by the court."

Sec. 3. This act shall become effective October 1, 1983 and implemented in every county of this State as funding is or becomes available to establish the procedures set out in this section.

SESSION 19 83

INTRODUCED BY:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND G.S. 49-4 TO ALLOW THE INSTITUTION OF THE PROSECUTION OF THE REPUTED FATHER AS WELL AS THE MOTHER OF AN ILLEGITIMATE CHILD ANY TIME BEFORE THE CHILD ATTAINS THE AGE OF EIGHTEEN (18) YEARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 49-4 is rewritten to read:

"49-4. When prosecution may be commenced. -- The prosecution of the reputed father as well as the mother of an illegitimate child may be instituted under this Chapter at any time before the child attains the age of 18 years."

Sec. 2. This act shall become effective October 1, 1983.

SESSION 19 83

INTRODUCED BY:

Referred to:

A BILL TO BE ENTITLED

AN ACT REGARDING THE COST OF BLOOD TESTS IN CASES IN WHICH THE QUESTION OF PARENTAGE ARISES.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of G.S. 8-50.1(a) is amended by deleting the word "regardless" and substituting the following:

"the court shall advise the defendant of his right to request blood tests. Regardless".

Sec. 2. G.S. 8-50.1(a)(2) is rewritten to read:

"(2) By requiring the State or the defendant, requesting blood tests and comparisons pursuant to this subsection to be initially responsible for any of the expenses thereof, except that if the defendant is indigent, the State shall be responsible for the initial expenses; and upon the entry of a special verdict incorporating a finding of parentage or non-parentage, by taxing the expenses for blood tests and comparisons, in addition to any fees for expert witnesses allowed per G.S. 7A-314 whose testimonies supported the admissibility thereof, as costs in accordance with G.S. 7A-304, Article 7 of G.S. Chapter 6, or G.S. 7A-315, as applicable."

Sec. 3. The first sentence of G.S. 8-50.1(b) is amended by deleting the phrase "arises, the" and substituting the following:

"arises, the court shall advise the parties of their right to request blood tests. The".

Sec. 4. G.S. 8-50.1(b)(2) is rewritten to read:

"(2) By requiring the plaintiff, alleged-parent defendant or other

interested party requesting blood tests and comparisons pursuant to this subsection to be initially responsible for any of the expenses thereof, except that if the party requesting the tests is indigent, the State shall be responsible for those expenses; and upon the entry of a verdict of parentage or nonparentage, by taxing the expenses for blood tests and comparisons, in addition to any fees for expert witnesses allowed per G.S. 7A-314 whose testimonies supported the admissibility thereof, as costs in accordance with the provisions of G.S. 6-21."

Sec. 5. This act shall become effective October 1, 1983.

SESSION 19 83

INTRODUCED BY:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND G.S. 50-13.7 TO ALLOW MODIFICATION ONLY AS TO INSTALLMENTS ACCRUING SUBSEQUENT TO THE MOTION TO MODIFY A JUDGMENT OR AN ORDER FOR CHILD SUPPORT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-13.7 is rewritten to read:

"§50-13.7 Judgment or order provisions pertaining to care, custody, tuition and maintenance of minor children.--

(a) Where the court has the requisite jurisdiction and upon proper pleadings and proper and due notice to all interested parties the judgment or order in an action for divorce, custody or support of minor children may contain any provisions respecting care, custody, tuition and maintenance of the minor children of the marriage that the court orders; and from time to time those provisions may be modified upon due notice and hearing and a showing of substantial change in condition; and if there are no minor children, the order may so state. The jurisdictional requirements of G.S. 50A-3 do apply in regard to a custody decree.

(b) Sums which have accrued and are due but unpaid under an existing order for support shall not be vacated or forgiven wholly or in part in any proceeding to enforce the order. Any portion of an accrued obligation as to which the court specifically finds as a fact that the defendant possessed neither the ability nor capacity with which to comply may by motion in the cause or by a separate action be reduced to judgment which shall, pursuant to G.S. 50-13.4 (f)(8), be a lien as other judgments, unless the court finds it unconscionable

by reason of the defendant's physical or mental disability. If the court finds that the defendant prospectively has the ability or capacity to satisfy this judgment through periodic payments, it may modify the support order to this effect.

(c) Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a child are terminated by emancipation of the child or by other operation of law but not by the death of a parent obligated to support the child. When a parent obligated to pay support dies, the amount of support may be modified, revoked or changed to a lump sum payment, to the extent just and appropriate in the circumstances.

(d) Any outstanding support obligation of a deceased parent may be reduced to judgment and paid in the order of payment of claims of the fifth class set forth in Article 19 of Chapter 28A.

(e) When an order for support of a minor child has been entered by a court of another state, a court of this State may, upon gaining jurisdiction, and upon a showing of changed circumstances, enter a new order for support which modifies or supersedes that order for support. Subject to the provisions of G.S. 50A-3, when an order for custody of a minor child has been entered by a court of another state, a court of this State may, upon gaining jurisdiction, and a showing of changed circumstances, enter a new order for custody which modifies or supersedes that order for support."

Sec. 2. This act shall become effective October 1, 1983.

SESSION 19 83

INTRODUCED BY:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND G.S. 14-322 TO PERMIT GARNISHMENT OF UP TO FORTY PER CENT (40%) OF WAGES FOR WILLFUL FAILURE TO PROVIDE CHILD SUPPORT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-322 is amended by inserting a new subsection (e.1) to read as follows:

"(e.1) A prosecution for violation of subsection (d) may include a petition by the prosecuting witness or another properly interested person for a garnishment order for the child's support as provided in G.S. 110-136. If a petition for garnishment is made part of the criminal proceeding, the notice requirements of G.S. 110-136 shall not apply and it shall be sufficient notice if the garnishment petition is served on the parent and his employer at least 10 days in advance of the garnishment hearing. The garnished amount of up to forty per cent (40%) of the defendant's monthly disposable earnings may be increased by an additional one dollar ($1.00) processing fee and assessed for each payment of the employee's wages. A conviction for violation of subsection (d) shall be sufficient grounds for issuance of the garnishment order, and the hearing on garnishment may be held at any time following the entry of judgment."

Sec. 2. G.S. 49-8 is amended by adding the following new subdivision (6):

"(6) Garnishment of no more than forty per cent (40%) of the defendant's monthly disposable earnings for support of the child as provided by G.S. 110-136 and a one dollar ($1.00) processing fee, if the prosecution for violation of G.S. 49-2 has included a petition by the prosecuting witness or another properly

interested person for garnishment. If a petition for garnishment is made part of the criminal proceeding, the notice requirements of G.S. 110-136 shall not apply and it shall be sufficient notice if the garnishment petition is served on the parent and his employer at least 10 days prior to the garnishment hearing. A conviction for violation of G.S. 49-2 shall be sufficient grounds for issuance of the garnishment order, and the hearing on garnishment may be held at any time following the entry of judgment."

Sec. 3. This act shall become effective October 1, 1983.

SESSION 19 83

INTRODUCED BY:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND G.S. 50-13.6 TO REQUIRE PAYMENT OF COUNSEL FEES TO PARTY ACTING IN GOOD FAITH IN ACTIONS FOR CUSTODY OR SUPPORT OF MINOR CHILD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-13.6 is rewritten to read as follows:

"§50-13.6. Counsel fees in actions for custody and support of minor children. -- In an action or proceeding for the custody or support, or both, of a minor child, including a motion in the cause for the modification or revocation of an existing order for custody or support, or both, the court shall, after opportunity for hearing, require the party whose conduct necessitated the proceeding to pay reasonable attorney's fees to the interested party acting in good faith, unless the court finds that the opposition to the action or proceeding was substantially justified or that other circumstances make an award of expenses unjust."

Sec. 2. This act shall become effective October 1, 1983.

SESSION 19 83

INTRODUCED BY:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND G.S. 49-14 TO CHANGE THE BURDEN OF PROOF IN CIVIL ACTIONS TO ESTABLISH PATERNITY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 49-14(b) is rewritten to read:

"(b) Proof of paternity pursuant to this section shall be by clear and convincing evidence."

Sec. 2. This act shall become effective October 1, 1983.

SESSION 19 83

INTRODUCED BY:

Referred to:

A JOINT RESOLUTION TO PERMIT THE LEGISLATIVE RESEARCH COMMISSION TO STUDY CHILD SUPPORT AND HOW TO ESTABLISH MORE EFFECTIVE AND EFFICIENT PROCEDURES TO INSURE ITS COLLECTION.

WHEREAS, a state and national problem exists in establishing and enforcing child support obligations; and

WHEREAS, women, who face economic deprivation due to discriminatory salary scales are the custodial parents for the vast majority of children being reared in one-parent families; and

WHEREAS, low-income, single-parent households are facing economic deprivation due to massive budget cuts in benefit programs; and

WHEREAS, child support enforcement strengthens families and reduces welfare spending by placing the responsibility for supporting children where it belongs: on the parents; and

WHEREAS, the Legislative Research Study Committee on the Economic, Social and Legal Problems and Needs of Women that has made an interim report to the 1981 Session (1982 Short Session) and a final report to the 1983 Session, has undertaken to address the issue of child support enforcement with recommended legislation but recognizes the task is so great that it recommends additional study of the subject be undertaken;

NOW, THEREFORE, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Legislative Research Commission may study the subject of child support and how to establish more effective and efficient procedures to collect child support.

Sec. 2. The Commission may report to the 1985 General Assembly and may submit an interim report to the 1984 General Assembly.

Sec. 3. This resolution is effective upon ratification.

SESSION 19 83

INTRODUCED BY:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND EQUITABLE DISTRIBUTION OF MARITAL PROPERTY ACT OF 1981 TO PREVENT THE UNAUTHORIZED DISPOSAL OF MARITAL PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-21 is amended after the second sentence by inserting a new sentence to read:

"Upon filing any action for divorce as provided in Chapter 50; specifically including divorce from bed and board as provided in G.S. 50-7, any action for custody and support as provided in G.S. 50-13.5, any action for alimony and alimony pendente lite as provided in G.S. 50-16.8, and in any action alleging domestic violence as provided in G.S. 50B-2; a party may seek a restraining order to prevent disposal of real or personal property which either party may claim as marital property."

Sec. 2. This act shall become effective upon ratification.

SESSION 19 83

INTRODUCED BY:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND CHAPTER 39 TO FURTHER EQUALIZE BETWEEN MARRIED PERSONS THE RIGHT TO INCOME, POSSESSION AND CONTROL IN PROPERTY OWNED CONCURRENTLY IN TENANCY BY THE ENTIRETY.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of G.S. 39-13.6(c) is deleted.

Sec. 2. The second sentence of G.S. 39-13.6(c) is rewritten to read: "For income tax purposes, each spouse is considered to have received one-half ($\frac{1}{2}$) the income from property owned by the couple as tenants by the entirety."

Sec. 3. Section 1 of this act shall become effective July 1, 1983. Section 2 of this act is effective for taxable years beginning on or after January 1, 1983, except that all income received on or after January 1, 1983, but before July 1, 1983, from a tenancy by the entirety created before January 1, 1983, is considered to have been received by the husband and is reportable by him.

SESSION 19 83

INTRODUCED BY:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO MAKE A TECHNICAL AMENDMENT TO THE GROUP HEALTH INSURANCE CONTINUATION AND CONVERSION PRIVILEGES LAW.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of 1981 Session Laws Chapter 706 is amended in line 2 by inserting immediately before the words, "or amended" the following: "renewed,".

Sec. 2. This act shall apply to all group policies, as defined in G.S. 58-254.35(1), that are delivered, issued for delivery, renewed, or amended after the effective date of this act.

Sec. 3. This act is effective upon ratification.

SESSION 19 83

INTRODUCED BY:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CLARIFY A PROVISION IN THE GROUP HEALTH INSURANCE CONTINUATION AND CONVERSION PRIVILEGES LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-254.57(c) is amended in the eighth line by inserting between the word, "ineligible" and the comma the following: "because of divorce or otherwise".

Sec. 2. This act shall apply to all group policies, as defined in G.S. 58-254.35(1), that are issued, renewed, or amended after the effective date of this act.

Sec. 3. This act is effective upon ratification.

SESSION 19 83

INTRODUCED BY:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROVIDE EXTENDED GROUP HEALTH INSURANCE CONTINUATION PRIVILEGES TO SURVIVING AND DIVORCED SPOUSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-254.42 is rewritten to read:

"§58-254.42. Termination of continuation.

(a) Continuation of insurance under the group policy for any person shall terminate on the earliest of the following dates:

(1) The date three months after the date the employee's or member's insurance under the policy would otherwise have terminated because of temination of employment or membership;

(2) The date ending the period for which the employee, member, or spouse entitled to continuation under subsection (b) or (c) of this section, last makes his required contribution, if he discontinues his contributions;

(3) The date the employee, member, or spouse entitled to continuation under subsection (b) or (c) of this section, becomes or is eligible to become covered for similar benefits under any arrangement of coverage for individuals in a group, whether insured or uninsured;

(4) The date on which the group policy is terminated or, in the case of a multiple employer plan, the date his employer terminates participation under the group master policy. When this occurs the employee, member, or spouse entitled to continuation under subsection (b) or (c) of this section, shall have the privilege described in

G.S. 58-254.44 if the date of termination precedes that on which his actual continuation of insurance under that policy would have terminated.

(b) The provisions of subdivision (a)(1) of this section shall not apply to the surviving spouse, if any, upon the death of the employee or member, with respect to that spouse and any eligible children whose coverage under the group policy would terminate by reason of such death.

(c) The provisions of subdivision (a)(1) of this section shall not apply to the spouse and any eligible children of the employee or member when coverage of the spouse and any eligible children would terminate because of marital separation or the granting to either spouse by a court of competent jurisdiction of an absolute divorce or divorce from bed and board.

(d) The continuation privileges provided by subsections (b) and (c) of this section shall be available without evidence of insurability; provided, however, that said privileges shall not be available to any person who is or could be covered by Medicare."

Sec. 2. This act shall apply to all group policies, as defined in G.S. 58-254.35(1), that are delivered, issued for delivery, renewed, or amended after the effective date of this act.

Sec. 3. This act shall become effective on October 1, 1983.

SESSION 19 83

INTRODUCED BY:

Referred to:

A JOINT RESOLUTION TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY SEX DISCRIMINATION IN INSURANCE.

WHEREAS, inconsistencies appear when setting rates for life, annuity and pension insurance plans in that women are given one lifespan for premium purposes and another, different, lifespan for paying out benefits; and

WHEREAS, there is significant evidence to substantiate the position that women have shorter hospital stays than men, even when including stays for childbirth, yet women are charged up to twice as much as men for medical insurance; and

WHEREAS, insurance is one of the few remaining facets in American life where classification on the basis of sex is not only permitted but virtually mandated by insurance underwriting practices; and

WHEREAS, the theories that are presently employed to defend classifications based upon sex have previously been employed to defend classifications based upon race on the ground that such classifications were dictated by actuarial findings; and

WHEREAS, one of the most basic American principles holds that no individual should be considered merely as part of a racial, sexual, religious, or ethnic group, or treated differently because of his or her membership in such group; and

WHEREAS, no individual can ever overcome the stereotypes or "averages" of the actuarial group classifications that are based on race or sex; and

WHEREAS, insurance classification based on sex ignores individual risk characteristics and results in imperfect classification systems;

WHEREAS, the Legislative Research Study Committee on the Economic, Social and Legal Problems and Needs of Women that has made an interim report to the 1981 Session (1982 Short Session) and a final report to the 1983 Session has determined sex discrimination in insurance to be pervasive and recommends that sex discrimination in insurance be studied;

NOW, THEREFORE, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Legislative Research Commission may study sex discrimination in insurance.

Sec. 2. The Commission may report to the 1985 General Assembly and may submit an interim report to the 1984 General Assembly.

Sec. 3. This resolution is effective upon ratification.

SESSION 19 83

INTRODUCED BY:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CLARIFY A MARRIED WOMAN'S DOMICILE FOR TAX PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-135(13) is amended by adding a new paragraph to read:

"The same presumptions about the domicile of a married individual shall apply equally to men and women."

Sec. 2. This act is effective upon ratification.

SESSION 19 83

INTRODUCED BY:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND G.S. 50-16.5(a) TO REQUIRE THE DETERMINATION OF AMOUNT OF ALIMONY INCLUDE INCOME TAX CONSEQUENCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-16.5(a) is amended by inserting after the word and punctuation "parties," the phrase: "income tax consequences, and other facts of the particular case."

Sec. 2. This act shall become effective upon ratification.

SESSION 19 83

INTRODUCED BY:

Referred to:

A JOINT RESOLUTION TO PERMIT THE CONTINUANCE OF THE WORK OF THE LEGISLATIVE RESEARCH COMMISSION'S STUDY ON THE ECONOMIC, SOCIAL AND LEGAL PROBLEMS AND NEEDS OF WOMEN AS BEGUN UNDER RESOLUTION 61 OF THE 1981 SESSION.

WHEREAS, the mandate that the Legislative Research Commission's Committee on the Economic, Social and Legal Problems and Needs of the Women of the State of North Carolina study the "extent of the sex discriminatory effect of common law, case law and administrative regulations" creates a task so great that more time and resources are needed for the task to be completed, and

WHEREAS, women with comparable skills, experience and education are paid, on an average, fifty-nine ($.59) cents for every one ($1.00) dollar a man receives for performing the same job; and

WHEREAS, poverty in North Carolina is becoming increasingly feminized; and

WHEREAS, women have special health needs in the areas of sex education and counseling, as evidenced by the rising rate of teenage pregnancies, and in the area of access to health care; and

WHEREAS, women who contribute significantly to the life and well-being of the State of North Carolina and to the character and well-being of its children are finding their families' well-being jeopardized by their limited economic resources available to the family; and

WHEREAS, the Legislative Research Study Committee on the Economic, Social and Legal Problems and Needs of Women that has made an interim report to the 1981 Session (1982 Short Session) and a final report to the 1983 Session, recommends that Women's Needs be given additional study time;

NOW, THEREFORE, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Legislative Research Commission may continue its study of the entire range of the economic, social and legal problems and needs of the women of the State of North Carolina.

Sec. 2. The Commission may report to the 1985 General Assembly and may submit an interim report to the 1984 General Assembly.

Sec. 3. This resolution is effective upon ratification.

APPENDICES

APPENDIX A

STATE OF NORTH CAROLINA

LEGISLATIVE RESEARCH COMMISSION

STATE LEGISLATIVE BUILDING

RALEIGH 27611

MEMBERSHIP

1981-1983

House Speaker Liston B. Ramsey, Jr.	Senate President Pro Tempore
Cochairman	W. Craig Lawing, Cochairman
Representative Chris S. Barker, Jr.	Senator Henson P. Barnes
Representative John T. Church	Senator Carolyn Mathis
Representative Gordon H. Greenwood	Senator William D. Mills
Representative John J. Hunt	Senator Russell Walker
Representative Lura S. Tally	Senator Robert W. Wynne

APPENDIX B

STATE OF NORTH CAROLINA

LEGISLATIVE RESEARCH COMMISSION

STATE LEGISLATIVE BUILDING

RALEIGH 27611

COMMITTEE ON

ECONOMIC, SOCIAL AND LEGAL PROBLEMS AND NEEDS OF WOMEN

LRC Member Responsible for Study:

Representative John J. Hunt
Lattimore, North Carolina 28089

Committee Cochairmen:

Representative Ruth M. Easterling
811 Bromley Road, Apartment 1
Charlotte, North Carolina 28207

Senator Helen R. Marvin
119 Ridge Lane
Gastonia, North Carolina 28052

Committee Members:

Representative Marie Colton
392 Charlotte Street
Asheville, North Carolina 28801

Mrs. Alice W. Gatsis
1712 LaFayette Circle
Rocky Mount, North Carolina 27801

* Representative Nancy H. Jones
122 North Woodland Avenue
Forest City, North Carolina 28043

Senator Rachel G. Gray
239 South Main Street
High Point, North Carolina 27260

Representative Lura Tally
3100 Tallywood Drive
Fayetteville, North Carolina 28303

Senator William G. Hancock, Jr.
Post Office Box 586
Durham, North Carolina 27702

Representative Wilma C. Woodard
1528 Gleneagel Drive
Garner, North Carolina 27529

Senator Marvin Ward
641 Yorkshire Road
Winston-Salem, North Carolina 27106

* (Appointed to replace deceased Representative Robert A. Jones)

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1981
RATIFIED BILL

RESOLUTION 61

HOUSE JOINT RESOLUTION 1292

A JOINT RESOLUTION AUTHORIZING STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Legislative Research Commission may study the topics listed below. Listed with each topic is the 1981 bill or resolution that originally proposed the study and the name of the sponsor. The Commission may consider the original bill or resolution in determining the nature, scope and aspects of the study. The topics are:

(1) Continuation of study of revenue laws (H.J.R. 15 -- Lilley).

(2) Continuation of study on problems of aging (H.J.R. 48 -- Messer/S.J.R. 37 -- Gray).

(3) Day care (H.J.R. 223 -- Brennan).

(4) Civil rights compliance of non-State institutions receiving State funds (H.J.R. 344 -- Spaulding).

(5) Social services and public assistance (H.B. 393 -- P. Hunt).

(6) The need for new health occupational licensing boards (H.B. 477 -- Lancaster/S.B. 285 -- Jenkins).

(7) Matters related to public education, including:

a. The feasibility of making the 12th grade optional in the public schools (H.J.R. 890 -- Tally).

b. Continue study of public school food service (H.J.R. 948 -- Brennan).

c. The teacher tenure law (S.J.R. 621 -- Royall).

d. Providing teachers with duty-free periods (S.J.R. 697 -- Speed).

e. Continuation of study regarding purchase of buses in lieu of contract transportation, and other school bus transportation matters (no 1981 resolution).

(8) Campaign financing and reporting (H.J.R. 975 -- D. Clark).

(9) State's interests in railroad companies and railroad operations (H.B. 1069 -- J. Hunt).

(10) Matters related to insurance, including:

a. Insurance regulation (H.B. 1071 as amended -- Seymour), including the feasibility of establishing within the Department of Insurance a risk and rate equity board.

b. How the State should cover risks of liability for personal injury and property damage (H.J.R. 1198 -- Seymour).

c. Credit insurance (H.J.R. 1328 -- Barnes).

(11) Matters related to public property, including:

a. Development of a policy on State office building construction (H.J.R. 1090 -- Nye).

b. The potential uses and benefits of arbitration to resolve disputes under State construction and procurement contracts (H.J.R. 1292 -- Adams).

c. The bonding requirements on small contractors bidding on governmental projects (H.J.R. 1301 -- Nye).

d. Continue study of the design, construction and inspection of public facilities (S.J.R. 143 -- Clarke).

e. Whether the leasing of State land should be by competitive bidding (S.J.R. 178 -- Swain).

(12) Allocation formula for State funding of public library systems (H.J.R. 1166 -- Burnley).

(13) Economic, social and legal problems and needs of women (H.R. 1238 -- Adams).

(14) Beverage container regulation (H.J.R. 1298 -- Diamont).

(15) Scientific and technical training equipment needs in institutions of higher education (H.J.R. 1314 -- Fulcher).

(16) Role of the State with respect to migrant farmworkers (H.J.R. 1315 -- Fulcher).

(17) Existing State and local programs for the inspection of milk and milk products (H.J.R. 1353 -- James).

(18) Laws authorizing towing, removing or storage of motor vehicles (H.J.R. 1360 -- Lancaster).

(19) Annexation laws (S.J.R. 4 -- Lawing).

(20) Laws concerning obscenity (House Committee Substitute for S.B. 295).

(21) The feasibility of consolidating the State computer systems (S.J.R. 349 -- Alford/H.J.R. 524 -- Plyler).

(22) Laws pertaining to the taxation of alcoholic beverages and the designation of revenues for alcoholism

education, rehabilitation and research (S.J.R. 497 -- Gray).

(23) Regional offices operated by State agencies (S.J.R. 519 -- Noble).

(24) Continue study of laws of evidence (S.J.R. 698 -- Barnes).

(25) Continue study of ownership of land in North Carolina by aliens and alien corporations (S.J.R. 714 -- White).

(26) Rules and regulations pertaining to the Coastal Area Management Act (S.J.R. 724 -- Daniels).

(27) Transfer of Forestry and Soil and Water from Department of Natural Resources and Community Development to Department of Agriculture (H.B. 1237 -- Taylor).

(28) Continue sports arena study (H.J.R. 1334 -- Barbee).

(29) State investment and maximum earning productivity of all public funds (H.J.R. 1375 -- Beard).

Sec. 2. For each of the topics the Legislative Research Commission decides to study, the Commission may report its findings, together with any recommended legislation, to the 1982 Session of the General Assembly or to the 1983 General Assembly, or the Commission may make an interim report to the 1982 Session and a final report to the 1983 General Assembly.

Sec. 3. The Legislative Research Commission or any study committee thereof, in the discharge of its study of insurance regulation under Section 1(10)a. of this act, may secure information and data under the provisions of G.S. 120-19. The powers contained in the provisions of G.S. 120-19.1 through

G.S. 120-19.4 shall apply to the proceedings of the Commission or any study committee thereof in the discharge of said study. The Commission or any study committee thereof, while in the discharge of said study, is authorized to hold executive sessions in accordance with G.S. 143-318.11(b) as though it were a committee of the General Assembly.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

JAMES C. GREEN

James C. Green

President of the Senate

LISTON B. RAMSEY

Liston B. Ramsey

Speaker of the House of Representatives

APPENDIX D

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1981

H 1

HOUSE RESOLUTION 1238

Sponsors: Representatives Adams; Easterling, Thomas and Brennan.

Referred to: Rules.

June 12, 1981

A HOUSE RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE ECONOMIC, SOCIAL AND LEGAL PROBLEMS AND NEEDS OF THE WOMEN OF THE STATE OF NORTH CAROLINA.

Whereas, there is indication that the common law of North Carolina, especially with regard to inheritance and property, often adversely affects women; and

Whereas, the Legislative Research Commission on Sex Discrimination stated in its 1977 report that, "it was necessary to postpone consideration of common law, case law and administrative regulations"; and

Whereas, no study has since been made to determine the extent of the sex discriminatory effect of common law, case law and administrative regulations; and

Whereas, no study has been made to determine the extent to which the recommendations of the Legislative Study Commission on Sex Discrimination have been adopted, either in whole or in part; and

Whereas, women contribute significantly to the life and well-being of the State of North Carolina and to the character and well-being of its children and family life;

Now, therefore, be it resolved by the House of Representatives:

Section 1.a. The Legislative Research Commission may study the economic, social and legal problems and needs of the women of the State of North Carolina.

b. The membership of the committee shall consist of 12 members appointed as follows:

- Four Senators appointed by the President Pro Tempore of the Senate;

- Four Representatives appointed by the Speaker of the House;

- The Director of the Council on the Status of Women;

- Three persons who fall in one or more of the following groups: working female heads of household, displaced homemakers, minimum social security recipients or low income women, husband present, who are working or looking for work, one to be appointed by the President Pro Tempore of the Senate; one to be appointed by the Speaker of the House and; one to be appointed by the Governor.

Sec. 2. The commission may specifically study:

a. the potential impact of federal budget cuts on women and also on their dependent children, especially low income working women, female heads of households, AFDC mothers, female social security recipients who presently receive minimum benefits;

b. the residual sex discrimination contained in common law case law and administrative proceedings of the State of North Carolina;

c. the extent to which the recommendations of the 1977 Legislative Research Commission Report on Sex Discrimination have been implemented;

d. any other matters appropriate to the mandate contained in Section 1.a. above.

Sec. 3. The Commission may report its findings and recommendations to the General Assembly, Second Session, 1982.

Sec. 4. This resolution is effective upon adoption.

Appendix E

Presentation to the Legislative Research Committee
To Study The Economic, Social and Legal
Problems of Women

By
Miriam J. Dorsey
November 13, 1981

Thank you for asking me to address this committee today. I must admit that I regret the need for a committee to study the "economic, social and legal problems of women." It is a clear indication that despite our changing world, women are not equal under the law and are not afforded the same economic opportunities as men. I am glad that the General Assembly and the Legislative Research Committee in its wisdom, is making an effort to address the problems that North Carolina women face today. Seeing the women and supportive men in this room is reassuring that serious attention will be given to the task at hand.

More than half of this states population is women or 51.6% and 56% of the registered voters in N. C. are women. I mention the voting population because it was thought that when the 19th amendment, granting women the right to vote, was passed that all of women's problems would be solved. The women who fought for and eventually won suffrage in 1920 felt that through voting women could and would exercise their power and numbers at the polls and would enable women to gain full equality with men. But that did not happen then and has not happened to date.

I have been asked to speak on the current status of women in our state and to provide you with an overview of some of the problems and needs that women face and which might be addressed by this committee. My position as Executive Director of the N. C. Council on the Status of Women has given me the opportunity to meet and talk with literally thousands of women across the state and our country, both formally and informally. Our Leadership Development Conferences alone - in which most of you have participated - have taken us into 90 out of 100 counties and through them we have reached around 20,000 women. We also have held Speakouts in 10 locations in our state. The Council works with women's organizations, domestic violence

and rape crisis programs across the state and in about half our counties, with local councils appointed by county and city officials to address the problems of women. Our six field coordinators also work with women in every area of the state. Based on the voices of these women who represent the majority of N. C. women, and our 20 member Council, I would like to briefly address their major concerns.

Employment and Education

Women across the state have consistently cited the economic status of women as the primary problem facing women today. Because of the economy of our country, few women have the option of being full-time homemakers as it takes 2 incomes to make ends meet. Therefore, more women are working outside the home than ever before. North Carolina has one of the highest female labor participation rates in the nation. In 1978, 55% of all N. C. women age 16 and older were working outside the home compared to a national figure of just over 40%. We expect the 1980 census figures to reveal even a higher percentage. Despite the female work force participation, women continue to earn slightly over half as much as men or in N. C. 61¢ compared to $1.00, and 80% of all working women hold the lowest paying jobs which have little or no upward mobility. Only 3% of women are now working in managerial positions and 2% in skilled craft jobs - compared with 11% and 23% for men. These are not new figures to anyone in this room; we've all heard them time and time again. Consider a new dimension to these statistics: 58% of all female heads of households are living below the poverty level. Of that 58%, 40% are either employed or unemployed and looking for work. I don't need to remind this group that when working women suffer and many do from low wages, the family suffers. Women work out of economic need; our laws and policies must begin to recognize this by addressing these inequalities. Women need more adequate training opportunities to allow them to hold more lucrative jobs in the skilled trades.

The North Carolina Council on the Status of Women ran a very successful program for 3 years and trained over 200 women in such skilled trades as carpentry, welding, bricklaying and heavy equipment operation. Based on this experience we know that women can do these jobs. I hope that this committee will consider ways to provide more and better job opportunities for women in the skilled trades and insure that new industries coming into our state, recruit, hire and train women in all phases of production. Community colleges need to be leaders in this area as well. We cannot discuss employment opportunities without addressing the needs of the displaced homemaker. The Council on the Status of Women has worked with over 200 such women in our state, helping them to become self-sufficient by developing an individual plan of action. Because these programs have been funded largely by CETA, few middle-class women have been able to take advantage of these classes. Also CETA is no longer mandated to target displaced homemakers as a category and many of the fledgling programs begun to assist displaced homemakers are in great jeopardy, as is in fact, the entire CETA program. I urge this committee to look into ways to increase opportunities for women who have spent years raising their families only to find themselves left without any financial resources and lacking a marketable skill. We must develop new ways of looking at the value of homemaking experience and volunteer experience. We must also find better options for the children of working mothers, so that they can be adequately cared for during the working hours. The General Assembly recently enacted a tax-credit for parents, but businesses need to have an incentive too for providing options for child care. You might also take a look again at several recommendations introduced in the last session of the General Assembly regarding quality of child care. Many women across the state have expressed great concern over the quality, cost and availability of child care. They are also interested in flex time and part-time opportunities which allow them more leeway in managing their family lives.

Feminization of Poverty

Recent statistics have brought to the public's attention the startling fact that most of the nation's poor are women. According to a 1980 report prepared by the National Advisory Council on Economic Opportunity, 1 in 3 female headed households is poor compared to 1 in 18 male headed households. And if this trend continues, by the year 2000, 100% of the nation's poor will be women and families headed by women. A significant group of women that contributes heavily to the population of poor women is older women. While families headed by women constitute 58% of all poor families in N. C., 33% are over age 60. Older women are poor for a number of reasons. For example, traditionally, our society has placed no economic value on the role of a homemaker. As a result, women who have chosen the profession of homemaking or have interrupted their careers to raise a family, find themselves in later life dependent on whatever - if any - finances their husbands leave for them. Due to recent cut-backs in AFDC, food stamps and other benefits many women and their families are increasingly struggling for a decent existence. Pensions and insurance are other areas that deserve some attention from this committee. Senator Gray can probably provide this committee with a good overview of the problems of older women.

Domestic Violence

Family abuse is a recognized problem in our country and state. In the Crime Control Agenda for N. C., which was the result of 37 public hearings on crime held across N. C. in 1978, family violence was called, "the most important, most serious, and most upsetting issue addressed in this report." The Domestic Violence Act of 1979, in fact, which Senator Marvin shepherded through the legislature, was a direct result of this message of concern expressed at these hearings. The Council also held 10 Speakouts this year across the state at which family abuse was cited as a major concern.

Statistics indicate that domestic violence is increasing. Two years ago statistics indicated that more than 1/4 of murders were committed by family mem-

bers. This past year PIN reported that almost 1/3 were done by family members. Across the state, mental health professionals, counselors and women's advocates report that domestic violence cases are at an all time high.

The Governor's Task Force on Domestic Violence, although still relatively new, is working to coordinate efforts and hence improve services to victims. Other goals of the task force include education within the community, technical assistance and monitoring the 1979 law. Of immediate and critical concern to the task force, to the Council on the Status of Women and to the Domestic Violence programs in communities across the state, is funding.

Last year the North Carolina Council on the Status of Women received $90,000 for supporting shelters and programs from Title IV-B, Child Welfare monies. This year the General Assembly defeated two bills which would have provided funds to support programs and shelters in North Carolina. Due to budget cuts the Council on the Status of Women has lost 100% of its funding through LEAA and Title IV-B. This means that each local program must struggle to seek community funding, which is minimal in many cases. With no financial assistance from the state of N. C., most programs face severe cuts in services that they have provided; some shelters fear they will have to close, and communities which are trying to start new programs will be curtailed in their efforts. In essence, a substantial number of abused women and children will have no alterntive to the abusive environment in which they live.

Currently there are 9 shelters for victims of family abuse and some 25 other programs of emergency assistance. However, funding for these programs is disappearing rapidly and even though law enforcement officiers now clearly have the authority to assist with domestic violence problems, they tell us they do not have the necessary resources to assist in this situation. For instance, Reach Shelter House assists victims of sexual abuse and domestic violence in Haywood and Jackson

Counties and received some funds from the Council on the Status of Women. This program, the only one of its kind in that area of the state, will have to close its doors at the end of the month if it does not receive additional funding. This committee should speak to the issue of family violence and continue the work started by the passage of the Domestic Violence Act. A number of states have increased the marriage license fee as a way of providing funds for domestic violence. The states of Illinois and Alabama did this just recently. There may be other ways of financing some of these programs.

Sexual Assault

In N. C. there has been a disturbing increase in the incidence of rape and other sex offenses. In 1979, 1,122 rapes were reported, a 22% increase over 1977. And in many cases even when the crime is reported, there are few arrests or convictions. For example, in 1977 in Charlotte only 10% of the rapes reported resulted in convictions and active sentences for the offender. The average sentence was only 6 years.

In addition to the problems of sexual assault, services to rape victims, where existing, have received minimal state financial support. Until this year, no money has been allocated to the mostly volunteer rape crisis programs operating across the state. The Council will be receiving a block grant of $66,772 which will be distributed to local rape crisis programs. However, this money will not come close to providing the funding which is needed to maintain comprehensive services to victims of sexual assault.

Rape is a violent crime and hence traumatic in every way to the victim and her family. Whereas some choose not to, many newspapers now print the names of rape victims, and even such identifying information as age and address. This only serves to add undue stress to the victim and does in no way contribute to good journalism.

In 1977 the General Assembly passed the rape-shield law and established the position of coordinator of services to victims of sexual assault. Under the leadership of Rep. Brennan and Easterling the 1979 General Assembly modernized the sexual assault laws to make them sex neutral, to protect victims of sex offenses and to clarify the evidence required for prosecution. I encourage this committee to study ways to provide more state support to local rape programs and to recommend legislation which would prevent newspapers from printing any information that would reveal the identity of rape victims.

Health

Women's health care is a growing concern to people in our state. Among women's health concerns are issues such as problems of aging, abortion, terminal illness, substance abuse, coping with stress and teenage pregnancy, pre and post-natal care. Violent crimes against women continue to soar while convicting those who commit them does not. Teenage pregnancy is a monumental concern nationally and in N. C. 1978 statistics reveal that there were 1,142,000 pregnancies to women younger than twenty(20). Only 1 in 6 births were conceived following marriage. If trends continue we can expect 4 in 10 young girls will get pregnant as teens. I hope that Secretary Morrow will have an opportunity to address this committee at some future date regarding what her department is trying to do to help alleviate this problem.

It is my feeling that this committee cannot ignore the issue of reproductive freedom and family planning. These are not only health issues, but legal and political issues and will impact either directly or indirectly on every woman in America. To pass a Human Life Amendment will forever deny a women the right to control her own body. There is a chance that this General Assembly will be faced with this issue in the near future.

Legal

Through the leadership of Representative Jones and others,many recommendations of the legislative research committee on sex discrimination were enacted. Two constitutional amendments proposed by that committee were passed. Many non-controversial but discriminatory statutes were changed and the work of this committee was an important foundation from which to build. One of the recommendations made by this study commission and also by one chaired by Rep. Lura Tally, was the enactment of a Fair Employment Practices Act. The need for an enforcement agency of this kind could become increasingly important in the future, particularly in light of a decreasing disregard for affirmative action programs at the federal level. The significance of the new law on equitable distribution of property cannot be overestimated as it firmly sets out the principle of marriage as an economic partnership. There are other areas in which I hope this committee will pay close attention. For example, a bill to amend the tenancy by the entirety statute to allow both husband and wife to manage, use and control property owned jointly has been introduced time after time only to be stalled in committee. This time this bill made it through the House of Representatives. The committee should consider this legislation along with the whole concept of property ownership between husband and wife, inheritance, the legal rights of homemakers and residency of spouses. Concerns in these areas come up everywhere I travel in N. C. as women are becoming increasingly aware of legal inequities based primarily on common law principles which made much more sense in the days before women owned property, could vote and hold down jobs outside the home.

I know that this committee will want to consider all of these areas and recommend appropriate action to the General Assembly. It is impossible to discuss the legal status of women without reminding you that both the Governor and the N. C. Council on the Status of Women have recognized the need for ratification of

of the Equal Rights Amendment by our General Assembly. Whereas I recognize and I am sure you do that the Equal Rights Amendment is both an emotional and a volatile issue, consideration of this issue cannot be overlooked in any discussion of legal equality for women.

My office has received numerous calls from women across our state who felt that they were financially and legally secure only to learn a bitter lesson - that their security was directly dependent on an intact marriage and that the family resources they had worked so hard to provide, actually belonged to their husbands and not to them.

I am glad that this committee will be looking into all of these needs of women in N. C. today. The role of women has changed, primarily due to our changing economy, and I am encouraged that this group is willing to grapple with these complicated issues.

The members and staff of the N. C. Council on the Status of Women stand ready to assist you in every way we can in this important endeavor. We have a great deal of information and resources to share with you, and I personally look forward to working with you.

Appendix F

STATE AND FEDERAL ASSISTANCE

KAY FIELDS, CHIEF, ASSISTANCE PAYMENTS SECTION

DEPARTMENT OF HUMAN RESOURCES

(Presented to the November 13, 1981 Committee Meeting)

I am really pleased to be here too. I would have liked to have had the opportunity to share a lot of this information with some of you earlier because I imagine that you are hearing from a lot of people in the community about all of the changes that we are experiencing in the AFDC program. The County Department of Social Services are in the process of reviewing all of the cases in the state to implement the changes that were enacted by Congress and were effective on October 1, 1981. We expect to have all the revisions completed on December 1, 1981. At that time we are going to see a significant impact on the economic condition of the AFDC families. We have estimated that approximately 10,800 cases will be terminated. That means 10,800 families will no longer receive AFDC after the November checks. These are all estimated figures. We do expect to have a complete, accurate report by November 20. Once the counties complete these revisions, we will be happy to share this data with the committee. We expect approximately 2,500 families will receive reduced benefits in addition to those families whose AFDC will be stopped altogether. I think the changes will most significantly affect the AFDC mothers who are employed and working and have some resources, but they are not sufficient to meet the families needs.

I would like to share with you some of the major regulatory changes that I think are going to have the most impact on AFDC families. First of all is what we are calling the 150% rule. We are very pleased that the General Assembly in the October session did raise the need standard by 100%. This will help a lot of the families who would have been terminated in the first go around unless we had had an increase of the standard of need. While the standard of need was increased in determining initial eligibility to this program, the payment standard was not increased. So that means that although some additional families will remain eligible, there will be no increase in their overall income or payment to the family. Included in the 150% rule in terms of how we will be testing initial eligibility, I think it is very significant for you to know that we will be considering the income of children. For example, we have children in AFDC families who have been doing a paper route, driving school buses, picking up odd jobs in the community and under the new rule we are now required to count children's income

in this initial test of eligibility. This is a major difference and it is a way a lot of these children have sufficient income that we can't provide for an AFDC to help them to stay in school and to meet their school expenses.

Another significant change is redefining the age of the dependant child. In North Carolina, we have chosen to provide AFDC to children through age 20 as long as they were in school. This way we were able to provide assistance to children not only in secondary school but technical schools and colleges and universities. The state no longer has that option as of October 1, 1981. We are required to terminate all children at the age of 18. The state has one option, we can elect to provide assistance to children age 18 as long as they are in secondary school and expect to graduate from secondary school before reaching age 19. So, in other words if you have a child in an AFDC family who is 18 and is a junior in high school, we immediately have to terminate that child's assistance. We are asking the Social Services Commission, however, to look at that option at their November 24 meeting, and we hope that we will be able to provide assistance at least to those 18-year olds who are seniors in high school. We do see that education is a way to break the welfare cycle and the poverty cycle. So this is going to be a significant change. We have received a number of calls already from mothers, because in a lot of cases these have been the only children in the family. So the AFDC is not only terminating the child but if it is the only child the mother is being terminated from assistance too. In our preliminary report, this one change has far exceeded the others in terms of reduction or savings, so to speak, in the program.

Another change is the way we are now required to look at the stepparent's income. Under state law, a stepparent is not considered financially responsible for stepchildren. With the change in the federal legislation, they are very careful in the wording in that stepparents are not legally liable for stepchildren; however, we are required to deem stepparent's income to the AFDC children. Here again, this has been one of the most significant changes thus far and the one that we see in the preliminary cases coming in that are also causing a number of deductions and terminations of assistance. In other words, if a stepparent is in the home we are required to look at his gross income. He is allowed certain deductions for his own needs and the needs of other dependants that he is supporting. But those needs are based on AFDC needs, not actual needs. If he is paying child support or court ordered alimony, we are able to deduct those if those dependants are outside of the home. If the dependants are in the home, we can only deduct

the AFDC standard of need. The income that is left over from the gross income is deemed automatically to the AFDC children and counted as income in determining their AFDC payment.

In terms of changes for working mothers, there are a number of changes in the way that we will be looking at her income now. In the past in terms of work related expenses or transportation, deduction for social security, federal and state taxes, the kind of things that we associate with working, we could either use a set amount or an actual amount. In other words, we could deduct an actual cost of their expenses. Under the new regulation, there is a cap of $75 if the mother is working full-time, we are required to reduce that to a lesser amount if she is working less than full-time. We have chosen to go with $75 for full-time employment and $38 for part-time employment. There is now a cap in the law on the deduction for day care expenses with a $150 per month per child. In the past there was no cap on day care expenses, if the mother paid it herself. There is one positive benefit that has been added in the work deduction, we now can permit a deduction up to $160 per month for incapacitated adult care. So if a working mother has an elderly parent in the home that she needs someone to look after while she is at work, we can allow that as a deduction. So I think that is a good move there.

Probably, many of you have heard about the the 30 1/3 which we call a work incentive in the AFDC program. In the past, a mother was allowed this incentive as long as she was employed. Under the new regulations, she is only allowed to receive this incentive for work for four consecutive months. She is not entitled to receive that work incentive again until she has been off the AFDC for 12 consecutive months. So you can see that many of the new changes at the federal level are geared to making the regulations much more restrictive to those people who do have income and resources and to strictly provide assistance to those families that have no resources or no way to make resources available.

There are some additional changes in the reserve requirement. I don't think they will have the impact nearly so significant as the ones that we have discussed in regard to income because in North Carolina very few AFDC families have any reserve or assets for emergencies. However, there is a cap on that now of $1,000 per family. The federal law only allows us to exclude the home site, one automobile with an equity of $1,500 or less and personal goods and household effects of limited value. Everything else we are required to consider in determining the family's assets. In the past we were able to exclude the savings of a child, if he had saved up money for school expenses or future educational needs, we were allowed to exclude that. We no longer can do that. That child's savings will have to be counted as part of the family's assets in the $1,000 limitation. So

before we were pretty much able to protect so to speak the income of the children in AFDC families, except when they were receiving certain types of other income such as social security. But if they did get out and get odd jobs and do these kinds of things to help with the expenses we could disregard that totally. But under the new regulations, we will be looking more and more at children's income in actually affecting that family's eligibility for AFDC.

As I said, it is still really early for us to tell the full impact of all of these changes. We will be able to have more information by the end of the month and hopefully tell how many families are going to be reduced and terminated. The full impact it is going to have on the spillover into other programs. There will very possibly be families that are going to be without resources that will be going into the county departments of social services, needing more of the general assistance type of assistance and will be going more to other agencies and community resources asking for assistance. So I do think it is going to have a spillover effect into many of the other community resources and programs.

Appendix G

PRESENTATION BY MARGARET RIDDLE

TO WOMEN'S NEEDS COMMITTEE

November 13, 1981

When the delegates and observers for the White House Conference on Aging met a few weeks ago for a briefing, we had a choice of sections in which we could participate. One of those sections was on the Economic Needs of Older Women. Dr. Ellen Winston, whom most of you know, sat with the participants in this section and gave some of the best advice I've heard yet. "The best thing you can do for older women," she said, "is to increase the life span of older men."

Those words are true. Of the 330,000 households in North Carolina below the poverty level, 58 percent are headed by a female. Thirty-three percent of those are over 60 years of age, 32 percent are white and 26 percent are nonwhite. Poverty, especially female poverty, is a very real issue before us today.

The Social Security System was designed to replace part of the wages lost when a worker retires, becomes disabled, or dies. Since Social Security was enacted, major changes in the economic role of women and in the institution of marriage have occurred.

In the 1930's, women ordinarily were regarded as economically dependent upon their husbands, and this assumption became a basic premise of the Social Security System. Today, the proportion of married women who can and do work for pay has grown. As the

ECONOMIC VALUE OF HOMEMAKING HAS BEEN INCREASINGLY RECOGNIZED, THE BELIEF THAT WIVES SHOULD BE CONSIDERED ECONOMIC PARTNERS WITH THEIR HUSBANDS HAS SPREAD.

THE INCREASE IN THE NUMBER OF MARRIED WOMEN WHO WORK FOR PAY IS PARTICULARLY SHARP. THE PROPORTION OF MARRIED WOMEN LIVING WITH THEIR HUSBANDS WHO PARTICIPATE IN THE LABOR FORCE HAS MORE THAN DOUBLED, FROM 20.8 PERCENT IN 1950 TO 47.6 PERCENT IN 1978. BY 1979, THE MEDIAN INCOME FOR A WOMAN WORKING FULLTIME AND YEAR-AROUND WAS $10,167 -- 59.6 PERCENT OF THE MEDIAN INCOME FOR MEN AT $17,061.

SOCIAL SECURITY BENEFITS ARE NOW PAID TO NEARLY 95 PERCENT OF THE AGED. HOWEVER, WOMEN ARE THREE TIMES AS LIKELY TO RECEIVE THE MINIMUM PRIMARY SOCIAL SECURITY BENEFITS DUE TO WORK HISTORY AND LOW LEVEL OF PAY OF MOST WOMEN'S JOBS. THESE BENEFITS HAVE BEEN CUT, ALTHOUGH CONGRESS IS RECONSIDERING. TWO MILLION PEOPLE RECEIVE THE MINIMUM SOCIAL SECURITY PAYMENT: 16,000 ARE OVER 95 YEARS OLD, 500,000 ARE OVER 80, TWO-THIRDS ARE OVER 70 AND A FULL 85 PERCENT ARE WOMEN.

FOR 36 PERCENT OF ALL AGED NONMARRIED WOMEN IN 1976, SOCIAL SECURITY BENEFITS ACCOUNTED FOR 90 PERCENT OR MORE OF THEIR INCOME; FOR 74 PERCENT, SOCIAL SECURITY REPRESENTED MORE THAN HALF OF ALL INCOME. AND ABOUT TWO-THIRDS OF ALL AGED WIDOWS AND WIDOWERS IN 1976 WERE LIVING IN POVERTY EVEN AFTER INCLUDING SOCIAL SECURITY BENEFITS, COMPARED TO 9 PERCENT OF AGED MARRIED COUPLES.

THE PAST TREND OF AGING WOMEN REMAINING WITHIN THE FAMILY SETTING HAS CHANGED TOWARD INDEPENDENCE AND SEPARATION -- AN OPTION MADE POSSIBLE IN LARGE PART BY SOCIAL SECURITY. EVEN THOUGH THE PRICE OF SUCH INDEPENDENCE IS POVERTY, THE TREND CONTINUES, REINFORCED BY THE GROWING NUMBER OF WOMEN MOVING INTO THE LABOR FORCE. NO LONGER IS THERE A DAUGHTER AT HOME TO CARE FOR AN ELDERLY MOTHER.

UNFORTUNATELY, THE LONGER A WOMAN LIVES THE POORER SHE BECOMES. WHY?

1. WOMEN LIVE LONGER AND BENEFITS ARE SPREAD OVER A LONGER PERIOD OF TIME. WITH INFLATION AND RISING COSTS, THE OLDER A PERSON IS, THE POORER SHE IS.

2. EARNINGS DROP SHARPLY FOR ALL GROUPS AFTER 65, BUT WOMEN IN PARTICULAR.

3. LOW OR NON-EXISTENT PENSIONS: 42 PERCENT OF COUPLES HAVE PENSION INCOMES BASED ON HUSBAND'S WORK HISTORY; ONLY 22 PERCENT OF UNMARRIED WOMEN HAVE THIS INCOME SOURCE. FEW PRIVATE PENSION PLANS ARE AVAILABLE IN THE TYPES OF JOBS WHICH ARE TRADITIONALLY HELD BY WOMEN. FEWER THAN ONE OUT OF EVERY SIX (6) WOMEN OVER 65 REPORTED TO THE CENSUS BUREAU THAT THEY RECEIVE A PENSION.

4. MOST UNMARRIED WOMEN HAVE NO SOURCE OF RETIREMENT INCOME OTHER THAN SOCIAL SECURITY.

5. WOMEN WHO HAVE CHOSEN TO BE HOMEMAKERS AND RELY ON THEIR HUSBANDS' INCOME, ARE LIKELY TO RECEIVE HIGHER SOCIAL SECURITY PAYMENTS AND SHARE IN SECOND PENSIONS AND SUPPLEMENTAL EARNINGS, BUT AT THE DEATH OF THE HUSBAND, THE PENSIONS DISAPPEAR AND SUCH WOMEN ARE NO BETTER OFF THAN WOMEN WHO HAVE SUPPORTED THEMSELVES THROUGHOUT THEIR LIVES.

OUR SOCIAL SECURITY SYSTEM ACTUALLY CONTRIBUTES TO THE POVERTY OF OLDER WOMEN:

- THE BENEFITS FORMULA IS BASED UPON EARNINGS. SINCE WOMEN TYPICALLY EARN LOW WAGES, THEY RECEIVE LOW BENEFITS AS RETIREES OR DISABLED WORKERS.

- WOMEN ARE PUNISHED BY THE SOCIAL SECURITY SYSTEM FOR MOTHERHOOD. THE BENEFIT FORMULA AVERAGES OUT EARNINGS ELIMINATING ONLY THE LOWEST FIVE (5) YEARS. SO EVERY ADDITIONAL YEAR OUT FOR CHILD RAISING REDUCES AVERAGE EARNINGS.

- ACTUARIAL REDUCTION: IF YOU ELECT TO TAKE BENEFITS AT 62, THE MONTHLY PAYMENT WILL BE REDUCED BY ACTUARIAL TABLES TO THE EQUIVANENT OF WHAT YOU WOULD RECEIVE IN A LIFETIME IF YOU WAITED UNTIL 65 TO RETIRE. SEVENTY PERCENT OF WOMEN IN 1970 RETIRED AT 62. WITH ACTUARIAL REDUCTION FOR LONGER LIFE THAN MALES AND ALSO EARLY RETIREMENT, THE CHECKS FOR WOMEN ARE CONSIDERABLY SMALLER.

- WIDOW'S GAP: WHEN THE YOUNGEST CHILD REACHES 18, THE WIDOW'S BENEFITS CEASE UNTIL SHE REACHES 60 OR IS TOTALLY DISABLED. YET, THE HOMEMAKER WIDOW OF 50 FACES SEVERE JOB HANDICAPS.

- THE DEPENDENCY STATUS OF THE HOMEMAKER UNDER SOCIAL SECURITY MAKES MANY OLDER WOMEN VULNERABLE, ESPECIALLLY IN CASE OF DIVORCE. A DIVORCED WIFE--AFTER A MARRIAGE OF 10 YEARS--IS ELIGIBLE FOR BENEFITS. BUT THE BENEFITS FOLLOW THE BREADWINNER. IF THE EX-HUSBAND IS YOUNGER OR ELECTS TO CONTINUE WORKING, THE EX-WIFE IS ELIGIBLE FOR NO BENEFITS--EVEN THOUGH HER HOMEMAKER LABOR MADE POSSIBLE HER HUSBAND'S LABOR AT WORK.

ALSO, A HOMEMAKER HAS NO COVERAGE FOR DISABILITY.

- ADDITIONAL SOCIAL SECURITY TAXES PAID SHOULD RESULT IN INCREASED SOCIAL SECURITY PROTECTION EQUAL TO AT LEAST THE VALUE OF THE WORKER'S OWN EXTRA CONTRIBUTION. BECAUSE OF THE EXISTENCE OF DEPENDENTS' BENEFITS, THIS IS NOT ALWAYS TRUE.

- DEPENDENT SPOUSES' BENEFITS FOR WOMEN WHO EARN ONE-SIXTH OR LESS OF THE COUPLE'S TOTAL EARNINGS WILL ALWAYS BE GREATER THAN THEIR BENEFITS AS WORKERS. ONLY IF THE WIFE EARNS A LEAST ONE-THIRD OF THE COUPLE'S TOTAL INCOME IS SHE GUARANTEED A LARGER RETIREMENT BENEFIT ON THE BASIS OF HER OWN EARNINGS THAN AS A DEPENDENT SPOUSE. THUS, UP TO THE POINT WHERE HER INCOME REPRESENTS A SUBSTANTIAL PORTION OF THE COUPLE'S TOTAL INCOME, SHE MAY RECEIVE A BENEFIT IN RETIREMENT THAT IS NO HIGHER THAN IF SHE HAD NEVER PAID A PENNY IN SOCIAL SECURITY TAXES!

GIVEN THE HIGH DIVORCE RATE AND THE INEQUITY IN BENEFITS, A WOMAN'S ONLY SECURITY MAY LIE IN QUITTING FULLTIME HOUSE-WORK AND FINDING A HIGHER PAID OCCUPATION. BUT THAT, TOO, IS EXTREMELY DIFFICULT FOR THE MAJORITY OF WOMEN--ESPECIALLY THOSE WHO TEACH OUR CHILDREN, WHO NURSE OUR SICK AND WHO RUN OUR OFFICES.

WHAT IS HAPPENING? WOMEN ARE ALL GETTING OLDER AND ARE ALL GETTING POORER. WE ARE LOOSING OUR FREEDOM OF CHOICE ABOUT HOW WE WANT TO LIVE OUT OUR LIVES. AND BASIC POLICY DECISIONS ABOUT SOCIAL SECURITY, THE THREAT OF A SYSTEM "GOING BROKE", AND THE CULTURAL BIASES WE FACE ARE CONTRIBUTING TO THIS LOSS OF FREEDOM. WE ARE BECOMING ECONOMIC EUNUCHS!

THANK YOU.

LEGAL PROBLEMS OF WOMEN IN NORTH CAROLINA

Presentation to the Legislative Study Commission on the Needs and Problems of Women in North Carolina, November 13, 1981

By: Carol Spruill, Staff Attorney
EAST CENTRAL COMMUNITY LEGAL SERVICES
and representative of the
Association of Women Attorneys

With such short notice, I do not pretend to present you with a comprehensive list of the legal needs of women. I have only some ideas and observations I have made as an adviser to hundreds of women who have come to me with their problems over the last five years.

Since my job is to be counsel for low-income people, many of my observations are not purely legal, but economic as well. Many of my clients would not have legal problems if they had more money.

I hope this introduction serves as some sort of transition for some fairly broad-based generalizations.

CHILD SUPPORT

One of the main problems on my mind is child support. As our nation's families increasingly become two wage earner families, the income from two people's wages becomes the norm, meaning the basis by which rent is set and prices for all kinds of commodities are set. Thus, the poorer family is the one income family and, of course, with their lower wages, the family headed by a single, female parent is the poorest family. With divorce rates rising and illegitimate birth rates rising also, a whole new poverty class has surfaced of the husbandless woman trying to support children. Far too often she does this with little or no financial assistance from the father of the children. The failure of absent parents to contribute to their children's financial wellbeing is a national disgrace.

Any laws that can strengthen the determination, and even more so, the enforcement of child support orders, are greatly needed. However, it is not so much the laws as the inability to hire a lawyer to enforce the laws that is the impossible hurdle for most women to clear. If the father insists on not paying, he can gain a great deal of money by forcing the mother to go back to court and compel him to pay arrearages. At the very least, he saves the interest on the money he has not turned over. Perhaps, we need a law that automatically awards interest on arrearages.

I would like for you to be aware of a lawsuit that I am an attorney for. I certainly cannot argue it or try it before you but I can acquaint you with our allegations.

The national Social Security Act in 1974 was amended to include a Child Support Enforcement Program. The services provided by this program include: (1) going to court and locating an absent parent, (2) winning a paternity suit and child support order, (3) monitoring the payments made under the order, (4) enforcing the order when payments were not made using necessary remedies such as the contempt power of the court, wage garnishment and attachment, and (5) modifying orders when needs change.

This program was designed not just for AFDC (Aid to Families with Dependent Children) recipients but also for others who applied for help. The rationale for including non-AFDC recipients was that those who were struggling on a low-income job could make ends meet and stay off welfare if they had child support to supplement their income.

This lawsuit alleges that this state is not supplying all these services to those who do not receive AFDC.

If this suit is won and women have access to the investigative and legal skills of the Child Support Enforcement Program, there is bound to be an increase in child support collected and a better life for female-headed households.

AFDC FOR UNEMPLOYED PARENTS

A second economic--legal issue, which would not be at all politically popular, is the absence of the AFDC-UP or "unemployed parent" program in this State. To get AFDC in North Carolina (which is only $167 for a family of one parent and one child), you cannot have two parents in the home unless one of them is disabled. This means that no matter how impossible it is to find work, the family is without income totally (except for Food Stamps) if both parents remain living together. I have never had a client confess to this, but I suspect that families break up in order for the mother and children to have some income--even this small amount. The father must choose between staying at home and having no income for rent and other necessities, or moving out and seeing his family better off. Families would be better off if they could stay together and get this tiny amount of money, and, of course, they would be required to keep looking for a job. With the unemployment rate rising rapidly, the need for this program is more important than ever.

MALE CONTROL OF ENTIRETIES PROPERTY

My third issue is not related to the poorest women but is a law that is one of the biggest anachronisms we have in this State. I call it the Lord and Master Rule and the legislature has failed to abolish it in the last three sessions. Of course, I am referring to the law that says when a husband and wife own property by the entireties that produces rents or profits, the husband has the right to manage and collect these profits and he does not even have to account to his wife for it.

This law is demeaning to women. It says to a woman, "I don't care how bright you might be or how big a clod or a boozer or a spend

thrift your husband might be, we are going to conclusively presume that your husband is a better manager than you and you must trust him to provide you with your fair share--with no recourse to the courts."

I have heard of a case that graphically illustrates the unfairness of this law. A man who was in prison rented out a house that he and his wife owned to his girlfriend and kept the profits. The district court held he had the right to do this.

Please get rid of this one.

AMENDMENTS TO THE EQUITABLE DISTRIBUTION OF PROPERTY ACT

Next, I will suggest three possible amendments to the Equitable Distribution of Property Act. First, there is vigorous debate among lawyers now as to whether the act allows courts to protect property and preserve the status quo during the year of separation while waiting for the divorce. I know several sponsors of the bill think this is clear--that the courts can issue restraining orders, but we do not yet know how the courts will interpret this and you may hear about this again. Obviously, we want the housewife who has very little of the marital property in her name to be able to apply this new act to something at the end of the year's separation.

Secondly, making pensions separate property is very unfair. A family may have mutually agreed that the wife will be a homemaker. In many cases, the pension may be the major asset of the family. The wife who has facilitated the husband's career should not be cut out of this.

Thirdly, the provision that states that increases in value the of separate property are also separate property is too broad. For example, a man may own a business before he marries and during the marriage the wife runs the home for him and maybe even helps out with the business as it multiplies in value over the years. This apparently would all be separate property and the wife would be left with nothing.

I do not want to leave this subject without applauding the General Assembly for taking the major step forward of passing this act in 1981.

DOMESTIC VIOLENCE PROGRAM FUNDING

My fifth plea is a plug for money for projects to prevent domestic violence in the State. All the legal remedies cannot give the same protection that a safe haven can. We desperately need shelters. All the shelters that have been created are filled to capacity and foundations have been swamped with requests.

Though the 1979 Domestic Violence Act helped a tremendous amount, it does not provide all the answers. The law responds to crime; it does not necessarily prevent it. I know of one case where a

man who was actually detained for lack of bail used his one call to ask a friend to beat up his wife. Women needing the contempt power of the court to enforce a protective order may not be able to hire a lawyer to enforce it. Despite the clarity of the new domestic trespass act, many magistrates still believe that a woman must have "legal separation papers" to take out a criminal trespass warrant against her husband.

Although nothing guarantees protection, shelters go a long way toward giving women this protection and the time and space to unclutter their minds. Imagine living in a home where you are subject to being awakened in the night to be beaten. A woman who has lived under fear must have a place to put her life together.

Thank you for inviting me. I hope I have not overloaded you with suggestions.

APPENDIX I

PRESENTED BY TRAVIS PAYNE, ATTORNEY, January 18, 1982

NORTH CAROLINA STATISTICS FOR CHILD SUPPORT ENFORCEMENT PROGRAM

	Fiscal Year 1976	Transition Quarter	Fiscal Year 1977	Fiscal Year 1978	Fiscal Year 1979	Fiscal Year 1980	1980 Quarterly Average
Total Collections	167,080	229,712	3,105,804	7,696,676	9,168,228	11,443,344	
AFDC Collections	105,793	193,939	2,671,072	6,661,130	7,714,074	9,414,005	
Non-AFDC Collections	61,287	35,773	434,732	1,035,546	1,454,154	2,029,339	
Federal Share of AFDC						4,973,666	
Incentive Payments						1,252,812	
State Share of AFDC						3,154,207	
Total Administrative Expenditures	1,109,041	652,336	3,093,485	4,872,423	5,800,373	7,320,370	
Expenditures - Service Agreements						236,711	
Expenditures - Cooperative Agreements						21,741	
Federal Share of Expenditures						5,490,278	
State Share of Expenditures						1,830,092	
AFDC Expenditures						7,059,181	
Non-AFDC Expenditures						261,189	
Total Caseload							91,102
AFDC Caseload							83,286
Non-AFDC Caseload							7,816
Number of Absent Parents from Whom a Collection was Made in Second Month of Each Quarter on Behalf of AFDC							9,457
Number of Absent Parents from Whom a Collection was Made in Second Month of Each Quarter on Behalf of Non-AFDC							2,360
Fees Received for Non-AFDC Cases						14,722	
AFDC Child Support Collections Per Dollar of Total Expenditures						1.29	
Total Collections Per Dollar of Total Expenditures						1.56	
AFDC Collections Per Dollar of AFDC Expenditures						1.33	
Non-AFDC Collections Per Dollar of Non-AFDC Expenditures						7.77*	

*Calculated

UNITED STATES STATISTICS FOR CHILD SUPPORT ENFORCEMENT PROGRAM

	Fiscal Year 1976	Transition Quarter	Fiscal Year 1977	Fiscal Year 1978	Fiscal Year 1979	Fiscal Year 1980	1980 Quarterly Average
Total Collections	511,676,067	180,873,718	863,704,311	1,047,981,403	1,333,259,009	1,477,699,706	
AFDC Collections	203,551,344	82,730,770	422,562,514	471,567,464	596,626,441	603,208,736	
Non-AFDC Collections	308,124,723	98,142,948	441,141,797	576,413,939	736,632,568	874,490,970	
Federal Share of AFDC						246,285,187	
Incentive Payments						72,442,950	
State Share of AFDC						274,464,845	
Total Administrative Expenditures	138,893,889	49,686,232	277,380,192	317,943,686	357,997,008	450,570,696	
Expenditures - Service Agreements						38,984,964	
Expenditures - Cooperative Agreements						180,137,203	
Federal Share of Expenditures						337,727,413	
State Share of Expenditures						112,843,283	
AFDC Expenditures						382,948,703	
Non-AFDC Expenditures						67,621,993	
Total Caseload							5,425,788
AFDC Caseload							4,582,751
Non-AFDC Caseload							843,037
Number of Absent Parents from Whom a Collection was Made in Second Month of Each Quarter on Behalf of AFDC							496,746
Number of Absent Parents from Whom a Collection was Made in Second Month of Each Quarter on Behalf of Non-AFDC							381,377
Fees Received for Non-AFDC Cases						4,935,329	
AFDC Child Support Collections Per Dollar of Total Expenditures						1.34	
Total Collections Per Dollar of Total Expenditures						3.30	
AFDC Collections Per Dollar of AFDC Expenditures						1.56	
Non-AFDC Collections Per Dollar of Non-AFDC Expenditures						12.93*	

*Calculated

Fannie Longley Thomason, Fayetteville, N. C.
Homemaker, wife, mother
Former President * Junior League of Fayetteville
Founder, first Chairman of Board - Fayetteville Day Nursery (first community sponsored child care facility in Cumberland County)
Board member and officer of other volunteer organizations, Fayetteville
Delegate - White House Conference on Aging Dep. Cumberland County Joint Advisory Committee on Aging

We, men and women are an aging society. Today one in every seven Americans is 60 years old or over. When today's preschooler turns 60, one in every four will be that age or older.

When in 1978 Congress authorized the 1981 W.H.C.A. it called for emphasis to be placed on the "right and obligation of older individuals to free choice and self-help in planning their futures."

The pervasive question throughout the 1981 W.H.C.A. was one of budget and economic crisis. The 1961 and 1971 Conferences were held in periods of economic plenty. The 1981 Conference was different. We as a nation have experienced no real economic growth in five years. Three times in the past two years we have had interest rates at above twenty percent. Social Security has run into financing difficulty. More than * 200 separate federal programs exist to help the elderly. These programs cost the taxpayer 25 percent of the national budget. Spiraling inflation, the economic enemy of every American, especially the older adult is rampant. Indeed many economists are saying that government intervention, regulatory policies, and high taxation have strangled our economy.

These were some of the realistic ground rules that pervaded the conference.

The results of the fourteen separate committees produced over six hundred resolutions, some in conflict with each other. Major innovative approaches were not achieved. Too many professionals limited their sights and interests to their own special areas. However, time and again committees heard a question from actual senior delegates themselves, as separate from service providers and other special interests, "What can I do for myself?" (This was perhaps the most positive and hopeful emphasis of all).

In a Constitutional - Representive system, such as ours, the American people are echoing this Senior question "What can I do for myself?" We must be pragmatic in solving our problems, for we cannot continue to proliferate the social programs in this nation. One of the marked characteristics of many helping professionals receiving tax monies, is that they are not accountable to the people who pay for their services, or to the people who receive them.

The American family must never stoop to the depth that would accept government funds to provide love and care to their own family members. While no person wishes to be a burden on his children or family, it is far more objectionable to be a burden on the taxpayers. The family ranks first as the traditional American "support system" and the church and volunteer organizations must band together to provide human nurture and humane services to our elderly.

The trend toward total government services cannot be turned around instantly, but we must turn back to our strong American belief that with freedom comes personal responsibility. The government should not continue generation after generation as the primary provider of services to the elderly. The growing inequitable tax burden to oncoming generations is staggering and must not continue.

As we have in place adaquate services to provide for the elderly, I purpose that no new State or Federal programs be initiated.

* Report of Select Committee on Aging of the House of Representatives on Aging in United States Oct. 7, 1977 pages 17-18

APPENDIX K

RECEIVED
APR 16 1982
LEGISLATIVE SERVICES OFFICE

Outline for Remarks to
Legislative Research Study Committee on the Economic, Social and Legal
Problems and Needs of the Women of the State of North Carolina
on proposal to amend Chapter 50 of the General Statutes.

Madame Chairman, members of the Committee, your Counsel asked me to appear before you today with a fiscal note on the effects your proposed amendment to Chapter 50 would have on the court system.

To appreciate the transition that would be required if this proposed bill was enacted, it is necessary to understand the present accounting system for alimony and support. The accounting system is totally manual in 69 counties, and maintained on electronic bookkeeping equipment in the remaining 31 counties. The system in all counties is a subsidiary ledger procedure with a separate card for each account which card I have a sample of for you. It is utilized primarily as a clearing mechanism for cash receipts and disbursements of alimony and support. The subsidiary ledger does, however, list the required data as asked for in the committee proposal. Accordingly, no additional cost is incurred by the bill's requirement of maintaining certain data.

Under the present accounting system, the subsidiary ledgers for each account are generally generated upon the first payment, and not when the order is issued. This means that there is no accounting record of the alimony and support account until the first payment is received in the Clerk's office. This procedure exists because it has always been assumed that the enforcement of alimony and support payments lies with someone other than the Clerk's office. Currently, some counties are able to support a review of these accounts and assist in enforcing these orders. Without the direct responsibility of enforcement, however, the Clerks' offices have had no reason to maintain procedures to determine accounts in arrears and followup.

In maintaining the subsidiary ledger, there is a tremendous amount of time now being spend in the accounting sections in the Clerks' offices on alimony and support. Due to the limited manpower in many of the Clerk's offices, a policy has been established in some counties not to respond to telephone inquiries about these accounts. Involvement by the Clerk's accounting personnel with the accounts has generally been limited to an exception basis. This means followup on arrearage is only directed to the

accounts in which the complainant, district attorney, judge, etc., inquire about the status of the payments.

At first glance, it would appear that statewide application of this bill would be expensive now and in the future due to the additional costs for employees and equipment. To determine the impact of this proposal on the court system, (Clerks' offices, District Attorneys, Judges), an intense study and review is needed. We are presently performing a "time and motion" study in a selected number of counties to determine factors to base a cost analysis on.

However, we have made a preliminary review of a sample of Clerks' offices to form an initial opinion of the additional costs if this bill is enacted. The following is data from this review:

- A sample of eight counties, covering the vast geography of this State, revealed an estimated 75,000 - 85,000 alimony and support accounts statewide. However, in the absence of a detailed study of a larger sample, it is very difficult to determine if the number of accounts run consistent with the size of the county. The eight sample counties were used to factor the total number of accounts.

- With the initial sample, we compiled the following record count data:

County Population Group	# of Counties	Estimated # of Accounts	Average # of Accounts	Estimated Total # of Accounts
200,000 and up	5	3500 - 4500	4000	20,000
100,000 - 199,999	8	1500 - 3000	2250	18,000
50,000 - 99,999	27	600 - 1200	900	24,300
20,000 - 49,999	37	200 - 600	400	14,800
up to 19,999	23	up to 200	100	2,300
				79,400

- Estimated labor required to review these accounts on a monthly basis (any other frequency can be calculated based on these figures. Must note that ordered payments are varied):

Monthly Procedure	Time Required Per Account	Total # of Accounts	Total Hours Required
Review individual account	1 minute	80,000	1334
Pull account and calculate arrears (30% in arrears)	3 minutes	24,000	1200
Type notice to obligor and mail	2 minutes	24,000	800
Follow-up (pending files and compare, submit to DA)	5 minutes	24,000	2000
	11 minutes/account		5,334 Total Hours per Month

Figures based on limited "time/motion" estimates only, from field accountant's experience.

Cost for assistant or deputy clerk capable of performing this task totals $13,000 annually (not including equipment), $6.25 per hour (cost includes).

Thirty-one new employees minimum needed. Pay Grade 56, Step 1. Monthly cost $33,337.50. Annual Cost $400,050.

- Equipment costs, minimum - new electronic calculator for new employee, not usually purchased for new assistant or deputy clerk; $140 each x 31 = $4340, first year costs.

- New accounting equipment would be too expensive to purchase for just this purpose. Electronic accounting equipment would range from $18,000 - $30,000. The Thirty-one counties that now have some electronic accounting equipment would need program changes to assist in the enforcement and this equipment would not alter the labor estimates on preceding page ($5500 program). In-depth study is needed to determine statewide equipment needed. Currently, Chris Marks, our Controller, is talking to vendors about current availability. But we could not justify upgrading our equipment based on this single requirement.

- Postage monthly -- first class mailing 24,000 statewide $4800 monthly. $57,600 annually.

- Recap.

Personnel cost	$ 400,050
Softward (existing equipment)	5,500
Equipment	4,340
Postage (Notices)	57,600
Estimated costs	
Estimated costs	$ 467,490

* * * * * * *

Franklin E. Freeman, Jr.
Administrative Office of the Courts

North Carolina
Department of Administration
116 West Jones Street Raleigh 27611 (919) 733-7232

James B. Hunt, Jr., Governor

Jane Smith Patterson, Secretary

April 1, 1982

Ms. E. Ann Christian
Staff Attorney
Legislative Research Commission
Raleigh, North Carolina 27611

Dear Ms. Christian:

In your March 8, 1982 letter, you requested that the Department of Administration supply the Committee on the Economic, Social and Legal Problems and Needs of Women with information regarding the composition and work of the Council on the Status of Women. In particular, you asked the Department to describe: (1) how the Council was formed; (2) who composes it; (3) the length of its members' terms; and (4) the nature of its work. This information is provided below.

1. How the Council Was Formed.

The North Carolina Council on the Status of Women was created in 1963 as the Commission on the Status of Women by Executive Order of Governor Terry Sanford. The General Assembly made the Commission statutory in 1965 and changed the name to the Commission on the Education and Employment of Women. In 1972, funds were appropriated to hire a staff. In 1975, the agency was renamed the North Carolina Council on the Status of Women. Additional responsibilities were given to the Council by the General Assembly in 1977 and 1979.

2. Who Composes the Council.

The 20-member Council is appointed by the Governor. This number was increased from 7 to 20 by the 1977 General Assembly. The Council has staff in Raleigh and in six regional offices. Members include homemakers and businesspeople. These men and women are representative racially and geographically. Minority membership includes the chair and three other black females, one black male, and one Indian female. See Attachment 1 for a list of the current Council members.

Local Councils on the Status of Women, which have no official or financial ties with the State Council, work on the local level in cooperation with the State Council.

3. Length of Members' Terms.

All Council members serve a two year term. Terms are staggered.

4. Nature of the Work of the Council.

The primary responsibility of the Council on the Status of Women is to advise the Governor, the North Carolina Legislature and principal state agencies concerning the education and employment of women in North Carolina. It may also advise the Secretary of Administration on any matter which the Secretary may refer to it. In 1977, the Office of the Coordinator of Services for Victims of Sexual Assault was created at the Council by legislative mandate. The statute was also amended in 1979 to authorize the establishment of programs for the assistance of displaced homemakers.

The Council also works to identify and assess women's needs, collects and distributes information, coordinates efforts within the state to meet the special needs of women, and develops and assists county and regional Councils on the Status of Women.

Commitment to improving the economic status of women has been the top priority of the Council, but it is also committed to providing assistance to alleviate some of the special problems that women face, such as spouse abuse and sexual assault.

The Council has established task forces on Women and North Carolina Law, the Needs of Minority Women, and Women and Economic Development. These groups make recommendations to the Council which in turn, makes recommendations to other agencies and the Governor and the General Assembly. Other ongoing task forces are those on Sexual Assault and the Governor's Task Force on Domestic Violence.

If you need any further information or clarification of this information, please contact me. I will be available at the Committee meeting on April 5 in order to respond to any questions that the Committee might have.

Sincerely,

Jane Smith Patterson

JSP/scw

Attachments

SESSION 19 81

INTRODUCED BY:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO RATIFY THE PROPOSED EQUAL RIGHTS AMENDMENT TO THE UNITED STATES CONSTITUTION.

The General Assembly of North Carolina enacts:

Section 1. The following amendment to the United States Constitution, proposed by the 92nd Congress of the United States, is hereby ratified by the North Carolina General Assembly:

"ARTICLE _____.

"Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.

"Sec. 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this Article.

"Sec. 3. This amendment shall take effect two years after the date of ratification."

Sec. 2. The Governor shall send certified copies of this act to the Administrator of General Services, Washington, D.C., the President of the Senate and the Speaker of the House of Representatives of the United States Congress.

Sec. 3. This act is effective upon ratification.

Appendix N

HUGGARD, SULLIVAN, HENSLEY & PEARSON, P.A.
ATTORNEYS AND COUNSELLORS AT LAW

JOHN PARKER HUGGARD
MARK E. SULLIVAN
ROBERT J. HENSLEY, JR.
ERNEST C. PEARSON

124 ST. MARY'S STREET
RALEIGH, NORTH CAROLINA 27605
TELEPHONE (919) 832-0050

September 23, 1982

SUMMARY OF COMMENTS AND TESTIMONY BY MARK E. SULLIVAN, ATTORNEY AT LAW, ON BILL TO ELIMINATE 3-YEAR STATUTE OF LIMITATIONS IN BASTARDY (CRIMINAL PATERNITY) CASES.

1. The nature of statutes of limitation is not logical but rather practical, when the state has a sufficiently strong interest in barring the litigation of stale claims in cases where witnesses may have disappeared and memories have faded. This is well and good in cases such as burglary, murder, assault and so on, where there may indeed be witness and memory problems. The rationale has no application, however, in paternity claims. Who are the typical witnesses in a paternity case? Typically, the doctor or lab technician that performed the blood tests will testify -- the blood tests that are performed (HLA and red-cell) are done in conjunction with the case and so there are no witness or memory problems here. The mother and alleged father may or may not testify; usually the mother will take the witness stand to testify about sexual relations. Finally, the child is permitted to be shown to the jury for possible resemblance to the alleged father. If anything, the passage of time (over three years) would improve very much the mother's ability to prove who was the father of the child, since an older child will likely have a more marked resemblance to the true father. The blood tests and the resemblance being the two strongest forms of evidence available to the mother and the state, it defies logic to set a three-year statute of limitations when at three years the chances are just beginning to get better that the mother can prove by facial resemblance who the father is. The blood tests, of course, are

available to be taken at any time, and the result will not change whether the child is one year old or seventeen.

2. It is important to understand that the criminal process may be the only recourse for the woman with little income and no assets. Typically, these are exactly the women who are giving birth to the illegitimate children. It is expensive and difficult for a private attorney to try a paternity case. The initial retainer would easily be $500-1000. Many women cannot afford this and turn to the criminal courts for assistance in child support/paternity cases. A three-year statute of limitations will block a very important and effective enforcement mechanism for women who cannot afford to hire a private attorney.

3. I have attached hereto one copy of a blood test result taken in a rec case I have handled. It is a matter of public record, having been filed in the Wake County District Court file in the case. It shows just how effective the HLA and red-cell tests are in proving paternity.

Mark E. Sullivan

Biomedical Reference Laboratories, Inc.
447 YORK COURT BURLINGTON, NORTH CAROLINA 27215 TELEPHONE 919 584 5171

BLOOD TESTING FOR PATERNITY EVALUATION

REFERENCE NUMBER:

MOTHER ----------

CHILD ----------

ALLEGED FATHER 7800-2191

COMPUTER DATE 06/15/82

COURT OR CASE NUMBER

ACCOUNT NUMBER 32303835

Burlington, N.C.

I. RED CELL ANTIGENS

NAME:	ABO	D	C	E	c	e	K	k	M	N	S	s	Fy^a	Fy^b	Jk^a	Jk^b
MOTHER Parks, Judith Ann	AB	+	o	o	+	+	o	+	o	+	o	+	o	o	+	+
CHILD Woodard, William M.	B	+	+	o	+	+	o	+	+	+	o	+	o	o	+	+
ALLEGED FATHER Forte, Joseph	O	+	+	o	+	+	o	+	+	o	o	+	o	o	+	-

II. LEUCOCYTE ANTIGENS (HLA)

NAME:	RACE	HLA PHENOTYPE
MOTHER Parks, Judith Ann	B	Aw30, Bw35, A26, Bw45
CHILD Woodard, William M.	B	Aw30, Bw35, Aw33, B7
ALLEGED FATHER Forte, Joseph	B	Aw32, Bx, Aw33, B7

COMBINED PATERNITY INDEX 705.22 to 1 PROBABILITY OF PATERNITY 99.85%

CONCLUSIONS:

The alleged father, Joseph Forte, and the child, William M. Woodard, share common genetic markers. Using the HLA system, along with ABO, Rh, MNSs, Kell and Duffy, the probability of paternity is 99.85%, as compared to the random unrelated North American Black population. The alleged father, therefore, is practically proven to be the biological father of the child.

I Certify that the above testing was conducted in accordance with the standards of the American Association for clinical Histocompatibility Testing and the American Association of Blood Banks and that the conclusions were determined independently by the undersigned and are correct as reported.

Sworn to and Subscribed
before me this 13 day of
July, 1982, at Burlington, N.C.

Notary Public
State of North Carolina
My Commission Expires 5-10-82

Jerry L. Morrisey, Ph.D.
Associate Director

G. L. Ryals, Jr., Ph.D.
Associate Director

James W. Geyer, Ph.D., Director
Department of Paternity Evaluation

Appendix O

THE UNIVERSITY OF NORTH CAROLINA
AT
CHAPEL HILL

School of Social Work

The University of North Carolina at Chapel Hill
223 E. Franklin St. 150 A
Chapel Hill, N.C. 27514
Tel. (919) 962-1225

TESTIMONY BEFORE NORTH CAROLINA SENATE STUDY COMMITTEE

November 9, 1982

My name is Andrew Dobelstein. I am Professor of social policy and social work at the University of North Carolina, Chapel Hill, since 1968. I have my doctorate in Political Science from Duke University, and I have been a consultant to the Office of Child Support Enforcement, Washington, D.C. since 1977 when the present Title IV-D program was initiated. I am pleased and honored to share some thoughts with you about the IV-D program and how it might be used in North Carolina to improve the conditions of women in our state. Perhaps if I mentioned some general features of the IV-D program and its potential in the program, the detailed proposals you will consider later will have greater relevance.

The extent to which single parenthood places women and children at great economic disadvantage has been repeated frequently. Both female heads of household and children in female heads of households are seven to twelve times as likely to be in poverty as women and children in two parent households. (Please see Table 1) To the extent that we improve the financial condition for women and children, particularly in female headed households, we have assisted improving the status of women in a significant way.

The Child Support Enforcement program offers opportunity to make North Carolina's system of child support more effective for many women in our state. While the obligation to support one's children is thoroughly and historically embedded in state laws, the federal child support program offers administrative assistance to states in locating absent and non-supporting parents, establishing support agreements and orders, and enforcing those orders. As part of the regular child support enforcement program, required in this state as a condition of participation in the federal Aid to Families with Dependent Children program, child support enforcement assistance is provided to non-AFDC recipients. To the extent that non-AFDC recipients comprise the largest proportion of female headed families, and to the extent this population is growing, assisting this

group of persons obtain child support can be a significant activity. Nationally, only about 59 percent of all divorced, re-married, single and separated women with children under age 21 are granted formal child support orders, and only 39 percent ever collect any child support payments. (See Table 1) Therefore, the amount of uncollected child support in this nation and in this state is quite large. Since over 80 percent of the AFDC caseload, presently, is composed of children who have no financial support because their father is unknown or absent from the home, it is easy to suggest that a better system of child support enforcement could help prevent the need for public aid in the first place.

The non-AFDC child support program differs from the AFDC child support program in several important ways. Perhaps most important, child support payments made under the AFDC program go to the state to defray welfare costs. While this is well and good, no financial benefit accrues directly to the family non-AFDC child support payments, however, go to the individual child and family. Furthermore, as the accompanying figures in Table 2 show, the non-AFDC program operates much more efficiently. For every dollar spent in the non-AFDC program, over seven dollars are realized in benefits to the family, whereas in the AFDC program every dollar spent generates one dollar and thirty-three cents in savings to the state.

Generally, there are a number of legal alternatives North Carolina might consider in order to improve both the AFDC and non-AFDC programs. For example, stiffer child support laws could make failure to pay child support a criminal offense, or civil laws could be fought to prevent judges from excusing prior unpaid child support obligations, or from amending support orders without a complete review of family circumstances. Stiffer penalties for non-support could be legislated. Improved techniques to enforce orders, once established, might include mandatory interception of state and federal income tax returns and liens on real property. Improved administrative activities might include better supervision of support payments by the state or local IV-D agency or by local court personnel. These are rather drastic measures, but when placed against the hardships caused to women and children denied legitimate financial support, more aggressive actions by the state through stricter laws does not seem unreasonable.

Our state IV-D agency might consider some demonstrating programs which would help non-supporting parents find and hold jobs, or improve their jobs, thereby improving the amount of personal income available for child support purposes. I have proposed one such demonstration which I believe the state

IV-D agency is presently considering, which would link job placement and training directly with local child support programs.

I also serve as a faculty member of the Bush Institute for the study of family and children policy. This Institute is funded privately by the Bush Foundation, operates on the U.N.C. campus and is one of three such Institutes in the nation. We have begun exploratory efforts to determine the extent to which improving the non-AFDC child support program can prevent or delay applications for AFDC, and the extent to which this program can lift female headed families out of poverty. Our preliminary findings, represented in part by the statistics I have shared with you, suggest that expanding this program in North Carolina can have a significant impact in reducing economic hardship for many women and children in our state. I discussed my appearance before you today, with Dr. James Gallagher, Director of our Bush Institute and I am authorized to tell you that we stand ready to assist you with whatever further research you may find necessary to determine how this program, or other public programs, can help reduce economic hardship for women and children in North Carolina.

Thank you.

Selected National Data on Poverty AFDC and Child Support*

Persons Below Poverty Level	
Infamilies	10.1%
Related Children Under Age 18	16.0%
Infamilies Headed by Female (No husband present)	34.8%
Related Children Under 18	48.6%
North Carolina AFDC Payments	$154,000,000
Average Monthly Payment per Family	$164.00
Child Support payments for re-married, divorced single and separated women with children under age 21	
Court Ordered Awards	59.1%
Some Support Actually Received	34.6%
Mean Child Support Payments	$1,799
Divorced	1,951
Re-Married	1,602
Single	976
Separated	1,906
N.C. Families	1,576,628
Families with Children 18	805,688
Number of Children Under Age 18	1,476,332
N.C. Female Headed Families	237,832
Female Headed Families with children Under Age 18	133,696
Children Under 18 in Female Headed Families	247,248
N.C. Divorces and Anulments	28,050
N.C. Marriages	46,718
Rate of Divorce per 100 marriages	60

*Source: U.S. Department of Commerce, Statistical Abstract of the the United States, 1981.

*Summary of AFDC and Non-AFDC
Program Statistics for North Carolina

Total Collections	$11,433,344
AFDC	9,414,005
Non-AFDC	2,029,339
Administrative Expenses AFDC	7,059,181
Net Savings to State	2,576,927
Benefit Per Expenses	$1.33
Administrative Expenses Non-AFDC	261,189
Net Savings to Families	1,768,150
Benefit per Expenses	$7.78
Total Child Support Cases (Average)	91,102
AFDC	83,286
Non AFDC	7,816
Average Collection for AFDC Case	$113.03
Average Collection for Non-AFDC Case	$259.63
Total Absent Parents Who Made Payment (Average)	11,817
Absent Parents Making AFDC Payment (Average)	9,457
Absent Parents Making Non-AFDC Payment (Average)	2,360
Average Collection for AFDC Absent Parent Parent	$995.45
Average Collection for Non-AFDC Absent Parent	$859.90

*Source: Office of Child Support Enforcement Program, Fifth Annual Report to Congress, Washington, D.C.: U.S. Government Printing Office, 1981.

WELFARE POLICY AND THE STATUS OF WOMEN

A Statement to the President's Commission
on
The Status of Women

Raleigh, North Carolina
September 14, 1979

by

Andrew W. Dobelstein, Ph.D.
Associate Professor
School of Social Work
University of North Carolina at Chapel Hill

Welfare policy, as described and implemented under the Social Security Act, has had a profound impact on the status of women since it was first legislated in 1935. Generally, welfare policy has reflected traditional attitudes about the roles and responsibilities of women, and it has failed to enhance women's potential or perhaps necessity to participate beyond homemaking and housekeeping responsibilities. These underlying assumptions are deeply ingrained in the Social Security Act's programs and are easily visible in its major programs--social security, income maintenance, and programs to encourage and enforce parental obligations to support children.

Social Security

Social security began with a serious sex bias which has adversely affected women for 45 years. Until recently, a woman's social security status and her benefits were defined with respect to her husband's status. Presently, a retired woman may receive benefits either because she accrued benefits from her spouse or because she had earned coverage in her own right by contributing to the program during years of employment. However, a woman may not receive both benefits in full. At best, she is entitled to an amount equal to the higher of the two benefits, neither of which is likely to be as adequate as a benefit available to a man.

Social security's sex bias has been unfair for women due to several reasons: Benefits tied to the husband's entitlement leaves a woman financially vulnerable in the event she becomes divorced within ten years after the marriage. Furthermore, a woman receives no recognition for homemaking and household work--services which probably enabled her husband to devote his major energies to a job. Benefits tied to a woman's own work record seems fair at first until it is recognized that women have interrupted work histories, and their earnings are considerably less than men. This is due to the fact that women have been viewed primarily as homemakers, and have had to interrupt careers in order to fulfill traditionally female role expectations. By definition, therefore, women who do have personal work histories receive substantially lower benefits than men.

There are a number of additional gender-based distinctions in the application of the social security program which are adversive toward women. For example, individual survivor benefits for a couple in which the wife also worked are often less than benefits for a couple in which only the husband worked. In light of changing roles of both men and women, these distinctions, along with those just mentioned, have been the focus

of a Congressionally mandated study of social security. This study has concluded with recommendations which could provide temporary relief to gender-based social security inequities, but the roots of these problems are endemic to social security and can not be addressed comprehensively without major legislative changes. With the passage of time, several design flaws in social security have been revealed which bear directly on the status of women, as the study report clearly states:

> In many cases, the goal of adequacy and equity are inconsistent; program changes that improve equity may reduce adequacy and vice versa. This tension has been with the system since its inception, and the appropriate balance between these two goals is often a source of controversy.[1]

Adequacy and equity in social security are essential to improve the status of women, but it is unlikely that either goal can be achieved as long as social security remains based on assumptions about women which ignore their diverse and evolving roles.

Income Maintenance

Aid to Families with Dependent Children (AFDC) has been criticized since its inception for its deleterious, though often unintended, policy consequences for women. The most serious problem is that this basic income support program places low-income women in a double bind. On the one hand the program was designed to support financially dependent children while providing a means for mothers to remain at home and care for them. On the other hand, the program offers grossly inadequate benefits, and mothers who

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1 Social Security and the Changing Roles of Men and Women. A Report to Congress. Washington DC: U.S. Department of Health, Education and Welfare, February 1979, p. 12.

choose to remain at home have consistently been targets for public criticism. Women are denied, further, a realistic choice between work and welfare due to the inadequate welfare provisions to help low-income mothers train for and find jobs which would help them become financially independent. The Work Incentive Program (WIN) was designed to assist low-income mothers find and hold jobs, but it has proven to be inadequate. The Council of Economic Advisors estimated in 1976 that, after nine years, the WIN program had helped fewer than 140,000 mothers to find and hold jobs.[2] Perhaps the real tragedy AFDC has wrought for women has been an underlying assumption that women have no realistic choice between work in the home or work for wages. Considering the fact that half of all AFDC mothers held jobs as recently as three months before receiving public assistance, the question as to whether AFDC shows any policy commitment to maternal employment should be raised.[3]

The Supplemental Security Income (SSI) program, a companion income maintenance program for poor disabled, aged, and blind persons promotes less obvious assumptions about women's roles, but still reflects dated views about women. For example, it is easier for men to establish disability than women, but women can develop a benefit status from their husbands. Two persons receiving SSI and living together have their housing allowance reduced by one half. For a husband-wife couple this might be appropriate, but it creates a hardship for women who are often forced to double-up for reasons of security.

The necessity for income maintenance programs has expanded considerably since 1935. AFDC and SSI continue to reflect earlier views of women, and thus inhibit rather than promote full development of women.

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2 Council of Economic Advisors, Report to the President. Washington DC: U.S Government Printing Office, 1976.

3 Judith Mayo, Work or Welfare. Chicago: University of Chicago Press, 1977.

Obligations to Support Children

Systematic efforts to secure parental financial support for children have existed at least since 1950 when Congress passed legislation which gave localities legal authority to find deserting fathers to make them pay child support. All states have parental responsibility laws, but these efforts to locate absent fathers and obtain support agreements lacked a strong national commitment and uniformity until 1974 when Congress established a federal Office of Child Support Enforcement, under TITLE IV of the Social Security Act.

Under present child support legislation, the state becomes the monitor of the parents' obligation to support children, often at the expense of the mother's initiative. The present child support statutes do not appear to consider the mother's capacity or desire for employment, nor do they support a mother's efforts to support her children. Rather, they reinforce the father's obligation for child support, and subsequently perpetuate a traditional view of the mother's family role. In fact, unless a mother anticipates that physical harm may come to her, she must participate in a process of obtaining child support from the father.

Administrative advocates of these new child support laws claim they promote "pro-family" policies and that these laws have made it possible to extend those services to non-welfare families as well. Under present child support legislation, any mother may request assistance from the Child Support Enforcement program, whether she receives a welfare benefit or not. This non-welfare part of child support policies has been used extensively. In 1977, about 500,000 AFDC families and 400,000 non-AFDC families received child support each quarter from an absent father under this program. But most of these payments were low and often sporadic. The impact of this program on overall family stability is questionable. Of 900,000 cases in

which some child support was received in 1977 under TITLE IV-D, there were only 183,000 cases in which a permanent support agreement was established (U.S. Department of Health, Education and Welfare, 1978). Thus the child support program appears to reinforce traditional roles for women without improving the economic welfare of the mother.

Conclusion

The Social Security Act has served the nation well for over 40 years, but it was developed from assumptions which no longer support the rapidly changing position of women in American society. Politically, it is unlikely to begin fresh with public welfare policies which would promote the status of women, but it is possible to suggest that the Social Security Act should be amended to reflect contemporary needs of American women. Neither President Carter's welfare reform proposals, nor those suggested by Congress will go very far in correcting those parts of the Social Security Act which are unfavorable to women. Only if women's issues are clearly raised during this time of welfare reform ferment will there be much potential for change to reflect a more favorable climate for women in the application of welfare policy.

REMARKS BY JANE SMITH PATTERSON
STUDY COMMISSION ON WOMEN'S NEEDS
NOVEMBER 9, 1982

I WANT TO FIRST OF ALL THANK YOU FOR YOUR WORK SO FAR IN IDENTIFYING AND SPEAKING OUT ON THE NEEDS OF WOMEN AND THE ISSUES AFFECTING THEM. I PERSONALLY APPRECIATE YOUR COURAGE IN VOTING OUT A RECOMMENDATION TO RATIFY THE ERA. I BELIEVE IT WOULD HAVE HELPED US AS WE ADDRESS THE VERY PRESSING ECONOMIC NEEDS OF WOMEN, AND I ALSO BELIEVE WE WILL HAVE ANOTHER CHANCE TO VOTE ON IT, POSSIBLY IN THE NEXT TWO YEARS.

BUT THERE ARE OTHER ISSUES THAT WE ALSO MUST PRESS AHEAD ON, ESPECIALLY THE ISSUE OF PAY EQUITY. I WOULD INVITE YOU TO CONSIDER THAT IN SOME DEPTH, AND I KNOW YOU HAVE THE STUDY THAT WAS DONE IN THIS STATE REGARDING IT.

PAY EQUITY IS NOT ALWAYS AN OBVIOUS PROBLEM. ALMOST ANYONE CAN SEE THE INJUSTICE IN A MAN AND WOMAN WORKING SIDE BY SIDE, GETTING PAID DIFFERENT AMOUNTS FOR THE SAME WORK--AND EQUAL PAY FOR EQUAL WORK IS A PART OF THE PAY EQUITY ISSUE.

BUT ANOTHER, MORE PERVASIVE PROBLEM IS EQUAL PAY FOR <u>COMPARABLE</u> WORK. BECAUSE MORE THAN HALF THE WOMEN IN THIS STATE WORK FOR A LIVING, AND BECAUSE THE COMPETITION FOR THE HIGH-PAYING JOBS IS INTENSE, YOU ARE GOING TO SEE MORE AND MORE ATTENTION GIVEN TO THE ISSUE OF COMPARABLE WORTH IN THE '80'S.

COMPARABLE WORTH MEANS THAT JOBS WHICH ARE NOT NECESSARILY SIMILAR IN NATURE, BUT ARE COMPARABLE IN TERMS OF SKILLS, EFFORT, RESPONSIBILITY AND WORKING CONDITIONS SHOULD BE COMPENSATED EQUALLY. THIS IS IMPORTANT BECAUSE WOMEN IN THE U.S. EARN ONLY ABOUT 60 PERCENT OF WHAT MEN EARN. IT MAY BE ARGUED RATHER CONVINCINGLY THAT THIS IS DUE TO A TENDENCY AMONG MANY EMPLOYERS TO UNDERPAY CERTAIN OCCUPATIONS MERELY BECAUSE THEY ARE USUALLY HELD BY WOMEN.

AS YOU WILL SEE IF YOU READ THE STUDY DONE BY THE AFFIRMATIVE ACTION DIVISION OF THE OFFICE OF STATE PERSONNEL, YOU WILL SEE THAT STATE GOVERNMENT HAS NOT BEEN IMMUNE TO THIS DEFICIENCY. ALTHOUGH THE STUDY ONLY LOOKED AT A SAMPLE OF JOBS AND CLASSIFICATIONS, THERE ARE ENOUGH CLUES TO INDICATE THAT NORTH CAROLINA DOES HAVE A PROBLEM IN THE AREA OF PAY.

I BELIEVE WE SHOULD MOVE AHEAD IN STATE GOVERNMENT AND ADDRESS THIS ISSUE, RATHER THAN WAIT FOR GRIEVANCES AND SUITS TO BE FILED. AS YOU SEE MORE AND MORE WOMEN IN THE WORKFORCE WHO HAVE GONE TO COLLEGE FOR FOUR OR MORE YEARS, YOU ARE GOING TO SEE MORE WOMEN DISSATISFIED WITH THE CLASSIFICATION SYSTEM AND PAY PRACTICES. THIS CALLS FOR AN OUNCE OF PREVENTION. ALREADY NURSES AND LIBRARIANS IN THE STATE HAVE BEEN TRAINING TO BRING THE ISSUE FORTH, AND I THINK WE SHOULD MOVE ON IT IN A REASONABLE LENGTH OF TIME, USING REASONABLE METHODS.

I WANT TO MENTION A FEW OTHER ECONOMIC ISSUES TO YOU,

BECAUSE QUITE FRANKLY, THE ECONOMY IS THE BIGGEST WOMEN'S ISSUE THERE IS. I WOULD ASK YOU TO LOOK AT THE ISSUE OF WHETHER STATE GOVERNMENT SHOULD PAY BENEFITS TO PART-TIME WORKERS. AS WE HAVE MORE EMPLOYEES INTERESTED IN JOB-SHARING, THIS BECOMES A LARGER ISSUE. AS A MATTER OF FAIRNESS, I FEEL THAT WE SHOULLD BE OFFERING THESE BENEFITS, ALTHOUGH I KNOW THAT WITH THE CURRENT ECONOMIC SITUATION WE WILL BE HARD PRESSED TO PROVIDE RAISES FOR FULL TIME EMPLOYEES.

I WOULD ASK YOU TO LOOK AT THE ISSUE OF UNISEX RATES IN INSURANCE. ALREADY THE STATE'S DEFERRED COMPENSATION BOARD HAS GONE TO UNISEX RATES IN ANNUITIES, PENDING THE OUTCOME OF A SUIT BEFORE THE U.S. SUPREME COURT. AND I WOULD URGE YOU TO LOOK AT INHERITANCE TAXES PAID BY WIDOWED HOMEMAKERS. FOR EXAMPLE, UNLESS A WOMAN CAN PROVE SHE PUT MONEY IN THE COUPLE'S JOINT CHECKING OR SAVINGS ACCOUNTS, WHEN HER HUSBAND DIES THOSE ACCOUNTS WILL BE CONSIDERED TO BE HIS ALONE, EVEN IF THE ACCOUNTS ARE IN BOTH NAMES.

ALL OF YOU SHOULD KNOW ABOUT THE WOMEN AND THE ECONOMY CONFERENCE COMING UP NEXT YEAR, WHICH WE ARE PLANNING FOR NOW. WE WILL HAVE TOP PEOPLE FROM ALL OVER THE COUNTRY TO TALK ABOUT THESE KINDS OF ISSUES, AND I INVITE YOU NOW TO PARTICIPATE.

I WOULD ALSO SUGGEST THAT YOU LOOK AT THE LEGISLATIVE AGENDA BEING DEVELOPED BY THE COUNCIL ON THE STATUS OF WOMEN. THE COUNCIL IS MEETING FRIDAY TO DECIDE ON THAT AGENDA, AND SOME OF THE ITEMS THEY ARE CONSIDERING INCLUDE AMENDMENTS TO THE TENANCY BY THE ENTIRETY LAW, ENFORCEMENT OF CHILD SUPPORT

PAYMENTS, AMENDMENTS TO THE EQUITABLE DISTRIBUTION OF PROPERTY LAW, FUNDING FOR VICTIMS' ASSISTANCE PROGRAMS, AND OTHER ISSUES. THEY ARE MEETING AT THE CAPITOL FRIDAY, AND THEY WOULD WELCOME YOUR ATTENDANCE..

AS THE VIRGINIA SLIMS' AD SAYS, WE'VE COME A LONG WAY, IN ADDRESSING THE NEEDS OF WOMEN IN NORTH CAROLINA. BUT WE ARE BY NO MEANS FINISHED. I HOPE YOU WILL CONTINUE TO PRESS STATE GOVERNMENT TO ADDRESS THE VERY REAL ECONOMIC ISSUES AFFECTING WOMEN, AND I THANK YOU WHOLEHEARTEDLY FOR YOUR HARD WORK.

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STATE OF NORTH CAROLINA
OFFICE OF STATE PERSONNEL

JAMES B HUNT, JR.
GOVERNOR

HAROLD H. WEBB
STATE PERSONNEL DIRECTOR

NOV 1982
RECEIVED
ADMINISTRATION

November 1, 1982

MEMORANDUM

TO: State EEO and Personnel Officers

FROM: Harold H. Webb, Director
Office of State Personnel

SUBJECT: Patterns of Pay in NC State Government

Under provisions of an IPA grant, a study of pay patterns in North Carolina State Government was conducted during the period, July 1980 - February 1982. The study results provide a wealth of statistical data and analyses of pay for employees subject to the Personnel Act, according to such categories as age, sex, race, occupational area, length of service, and amount of formal education. The relatively narrow scope of the study results provides no conclusive results or specific management recommendations; rather, the data may serve as a base from which further research and comparative analysis can be generated.

Attached for your information is a summary of the research report. Due to cost constraints and the tentative nature of the study, the full test of the three-part study will not be available for general distribution, though a copy of each part is available for loan from the Office of State Personnel.

The summary information omits one segment of the study which included an attempt to compare actual salaries of North Carolina jobs with projected point value (not actual) salaries of another state. Due to uncertainties of procedure and the hypothetical nature of the data, no analysis or summary of this part of the study is reported.

HHW/GCD/lpt
Enclosure

AN EQUAL OPPORTUNITY EMPLOYER

This study was designed to identify and explore differences in pay by race and sex in the North Carolina State Government workforce. The report consists of two chapters. The first examines differences in pay in detailed tables and graphs introducing the effect of one other relevant variable. Chapter Two takes a more sophisticated statistical approach, using multiple regression analysis which has the ability to simultaneously assess the effect of a group of variables on salary. The two chapters in this report are related in that they both focus on salary differences by race and sex but are separate in the sense that the conclusions drawn in each are not dependent on the results obtained in the other chapter.

The tables in Chapter One as a whole paint a salary picture in which white males continue to enjoy the salary advantage they have traditionally held. As a rule, salary patterns emerge in which white males are disproportionately found in the salary ranges above $13,000 while white females, black males and black females are overrepresented at the lower end of the salary scale. Furthermore, white males enjoy a salary advantage over their white female, black male, and black female peers at every educational level. Only among holders of graduate degrees does any other group (in this case, black males) begin to approximate the salary pattern of white males. In addition, when comparing educational attainments of employees to the requirements of the position they occupy, white males are both most likely to have a job with a primary requirement of a higher degree of education than they actually have and least likely to have jobs that require a lower level than they have. Increasing years of service to the State pay off more handsomely for white males than any other group, especially in the higher salary ranges; the differences between white males and the other three groups grow as years of service increase. The same pattern surfaces within age groups--although white males still hold an advantage at all levels, among the youngest state workers the differences are smallest.

As occupational segregation has often been identified as a vehicle perpetuating salary differences between these groups, salary patterns were explored using both a system of occupational groups developed by the NC Office of State Personnel and the Equal Employment Opportunity Commission's 8-category system. With only a few exceptions, the dominant pattern of higher pay for white males appears in most of these occupational categories. Even among the female dominated clerical positions white males retain a salary advantage over other groups. The most important exception to this rule appears among officials and administrators, where black and white males enjoy a salary pattern advantage over females. Finally, an even more stringent occupational segregation analysis, measuring race and sex segregation by job class instead of the broader occupational categories, found that over 22% of all state employees worked in race segregated jobs and that more than 72% met the definition of working in sex segregated jobs. The overall conclusion that emerges from this chapter is that, for the most part, the salary advantage of white males over other groups is sustained even when controlling for other factors that might affect the relationship between sex or race and salary.

These tabular analyses present a great deal of information but are limited to consideration of one "control variable" at a time. In Chapter Two, using multiple regression techniques, the effects on salary of the variables assessed

separately in Chapter One can be considered simultaneously. When the factors of education, years of aggregate service with state government, age, and supervisory status are all statistically accounted for, the race/sex variables in the regression equation remain significant. Extensions of this basic regression analysis reaffirm the original findings. In analyses of six occupational categories, white males retain their salary advantage over the other groups in all six cases. These separate occupational analyses reveal differences in other areas, however, notably that returns to education are far greater to officials and administrators and professionals, and that years of service is not a significant influence on salary among officials and administrators. The proportion of variance explained by the proposed model also was far smaller for officials and administrators and professional groups than the four other categories involved. Separate regressions also were done within race/sex groups and the results reinforce earlier findings --white males enjoy higher rates of return to education, age, years of service, and supervisory position over the other three groups of employees. This advantage holds even when occupation is controlled in the equation.

The above regression results provide absolute dollar values to attach to influences on salary but their statistics are neither directly comparable nor explicitly ordered. A path analysis provides a theoretically based explanatory model and standardized statistics that allow direct comparison of effects. The overall path analysis shows that while education has the single most influential impact on salary the effects of race and sex are also significant. The considerable direct effects of race and sex on salary (that is, those not transmitted through differences in educational levels, years of service, occupational placement, or supervisory placement) indicate that other, perhaps illegitimate, sources of salary disparities are present.

Separate path analyses within the six occupational streams show that race and sex retain their influences in each case but the explanatory patterns fall into two distinct patterns. Officials and administrators, professionals, and (to a lesser extent) skilled craft workers share one causal pattern where education dominates and race and sex are relatively minor influences on salary. On the other hand, technicians, office and clerical workers, and service and maintenance employees all show years of service as the clearly dominant factor in salary determination. Race and sex also have a greater impact on salary than in the first group of occupations. A key difference is that an organizationally based variable, years of service, dominates the latter set of occupational path analyses, whole education, an individual attribute, is the largest single influence on salary among the former cluster of occupational groups.

The overall picture obtained from the regression and path analyses in Chapter Two is one that features the advantages of white males over other race/sex groups. Even with the effects of different amounts of education, aggregate service, age, supervisory and occupational placement statistically controlled, white males salaries exceed all other groups. This pattern holds both when separate regressions are run within occupational groupings and within race/sex groups.

As a whole this research report shows that under a wide variety of conditions and using an assortment of analytic methods, white males maintain higher salaries over other groups in the NC State Government workforce. These results are a base of departure rather than a set conclusion; the exact causes of these differences are beyond the scope of this study and would require additional data and further analysis. In addition, the scope of this study is strictly internal

and does not draw comparisons with the labor market as whole or with other segments of private or public employment. Further information on the results of this report is available in the North Carolina Office of State Personnel.

EXECUTIVE SUMMARY

This research report examines pay patterns by race and sex within the North Carolina State Government workforce. It consists of three chapters. The first looks at salary pattern differences among race/sex groups when one other variable, such as education or years of aggregate service, is taken into account. These data are presented in graphic and tabular form and are intended to give a detailed picture of salary differences among these groups. Chapter Two involves a more elaborate statistical analysis in which more than one relevant influence on salary can be assessed at one time. The multivariate statistical technique of multiple regression here will estimate the differences in salaries among race/sex groups with the effects of number of relevant influences on salary taken into account. The final chapter in this report deals with the issue of pay equity or what has become known as the "comparable worth" issue. Two samples of jobs are evaluated on the basis of equivalent pay for equivalent work as measured by two job point evaluation systems developed to assess the pay structure of the state government workforces of Idaho and Washington. Simple regressions will compare the actual salaries of North Carolina positions with those predicted by the point value under the Idaho or Washington systems. The gap between the figures will then be analyzed for any patterns that emerge in regard to the racial or sexual composition of the employees. The variety of analytic tools employed in this report will provide different viewpoints from which to detect patterns of pay in state government. The results are reported in this summary by chapter.

In the tabular analyses in Chapter One, as a rule, salary patterns emerge in which white males are disproportionately represented in the salary ranges above $13,000 while white females, black males and black females are overrepresented at the lower end of the salary scale. Among the various departments of state government with over 900 employees, the only exception to this rule is the Department of Correction where all four pay patterns take on a similar form. The Department of Correction, it should also be noted, has the lowest percentage of employees in the $25,000 and above salary range.

When relevant control variables were each assessed for their effect on this overall pattern, the tabular analyses showed:

- At every education level, white males enjoy a salary advantage over their white female, black male and black female peers. Only among holders of graduate degrees does any other group (in this case, black males) begin to approximate the salary pattern of white males.

- White males hold proportionately more jobs that require higher educational attainments than they actually had (19% versus 12% for white females, 9% for black males, and 10% for black females).

- White males also hold proportionately fewer jobs that had lower educational requirements than they actually possessed (22% to 31% for white females, 32% for black males, and 36% for black females).

- Increasing years of aggregate service pay off more handsomely for white males than any of the other subgroups, especially in the uppermost salary ranges. This superiority is compounded by the advantage white males hold in years of service, that is while white males make up only 41% of those state employees with 1 year or less of service, they constitute 68% of all employees with 10 or more years of employment with state government.

- The patterns controlling for age reflect those seen above with exception of youngest age group (age 25 and below) where all four subgroups exhibit a similar salary distribution. It is not until the 36-45 year old category that the familiar picture begins to emerge with white males dominating the salary ranges above $15,000 and the other subgroups disproportionately represented below that mark.

One of the primary vehicles for perpetuating salary differences among the races and sexes has been occupational segregation. Some jobs are known as "female" or "black" jobs and the positions in which these groups dominate are for the most part among the lowest paid in most organizations. In order to control for such occupational differences, salary patterns were examined in occupational categories under two classification systems, one developed by the North Carolina Office of State Personnel (OSP) and the other by the Equal Employment Opportunity Commission (EEOC). The following highlights emerged:

- Among the Clerical and Office Services classes in the OSP system, a disproportionately high share of white males earn $13,000 and above despite the tightly clustered range of pay grades and overwhelming female numbers in this category.

- Jobs in the Institutional Services and Human Services categories have the two most homogeneous pay structures of the 12 OSP classifications examined. All the rest show some variant of the dominant salary pattern where white males are disproportionately represented at the top end of the pay structure.

- The Officials and Administrators EEOC classification shows a distinct separation by sex but not by race. Black males in this category parallel the salary pattern of white males but the gap between male and female managers remains.

- The Paraprofessional occupations are the most homogeneous of any of the 8 EEOC classification. All the rest, especially the Technicians and Skilled Craft classes, show a distinct advantage for white males.

The final examination of jobs in the tabular section involves a comparison of race and sex segregated positions. Those jobs above 95% white or 55% black are defined as race segregated. Those jobs where either gender makes up more than 70% of the incumbents are defined as sex segregated.

Under these definitions, 11,259 or 22.5% of all state employees work in race segregated jobs. An examination of each subgroup within "white" and "black" job classes reaches a similar conclusion in each case: each group does better in "white" than "black" job classes.

Amazingly, 36,051 or 72.1% of all state employees met our definition of working in a sex segregated job. The salary patterns of the four subgroups show more differences than in race segregated jobs. White males actually are better represented in the upper salary brackets in "female" job classes than in "male" ones. For white females the opposite holds true -- they are better paid in jobs where men predominate. Black females also show this pattern but to a lesser degree. In sex segregated jobs of either kind black males do poorly; they show a few representatives at the upper ends of both the "male" or "female" job classes.

These tabular analyses present a great deal of information but are limited to an examination of one "control variable" at a time. In Chapter Two, a more sophisticated approach is taken enabling a number of relevant variables to be statistically controlled. Using a multiple regression analysis, even when the factors of education, years of aggregate service with state government, age, and proportion of supervisory personnel are all simultaneously statistically accounted for, salary penalties of $2529.19 for white females, $2212.62 for black males, and $3271.08 for black females emerge.

As earlier analyses indicated, occupational category is a great influence on salary. Performing this same regression analysis within six occupational groupings reveals both similarities and differences among them. In all six regressions white males retain their salary advantage over the other three subgroups. However, the returns to education among officials and professionals are far greater than to any other of the other groups. Additionally, among officials and administrators, years of aggregate service had no significant impact on salary. As far as absolute salary costs go, black females are under the greatest dollar disadvantage in all job streams except among technicians and clerical workers, where black males do the poorest. Finally, the equations for officials and administrators and for professionals explain far less of the overall differences in salaries than do the ones for the other four subgroups; unmeasured influences on salary missing from these analyses have stronger effects in these two occupational areas than in the others examined.

Separating employees along race/sex lines and predicting salaries reinforces the findings already presented. White males enjoy a higher rate of return to education, years of aggregate service, supervisory position, and age over the other three subgroups. Adding controls for

occupational category produces a significant improvement in the amount of variance in salaries explained for all four race/sex groups.

Since both different returns to, and different levels of education, aggregate service, age, and supervisory position are involved in the salary differences among race/sex groups, some artificial manipulations are used to assign the relative weight to these two sets of differences. When the levels of education, aggregate service, etc. of white males are substituted into the equations for the other three groups, black males benefit more from this change than either white females or black females. However, when white male rates of return to these variables are substituted for those of the other groups, both female categories benefit more than do black males.

The above regression results provide absolute dollar values to attach to influences on salary but their statistics are neither directly comparable nor explicitly ordered. A path analysis provides a theoretically based explanatory model and standardized statistics that allow direct comparison of effects. The overall path analysis shows that while education has the single most influential impact on salary the effects of race and sex are also significant. The considerable direct effects of race and sex on salary (that is, those not transmitted through differences in educational levels, years of aggregate service, occupational placement, or supervisory placement) indicate that other, perhaps, illegitimate, sources of salary disparities are present.

Separate path analyses within the six occupational streams show that race and sex retain their influence in each case but the explanatory patterns fall into two distinct patterns. Officials and administrators, professionals, and (to a lesser extent) skilled craft workers share one causal pattern where education dominates and race and sex are relatively minor influences on salary. On the other hand, technicians, office and clerical workers, and service and maintenance employees all show aggregate service as the clearly dominant factor in salary determination. Race and sex also have a far greater impact on salary than in the first group of occupations. The sum total of the findings indicate that the ability of state government to close the salary gap between white males and other groups ought to be greater in the latter set of occupational groups where intraorganizational experience plays a greater role in salary determination.

The overall picture obtained from the regression and path analyses in Chapter Two is one that features the advantages of white males over other race/sex groups. Even with the effects of different amounts of education, aggregate service, age, supervisory and occupational placement statistically controlled, white males continue to own a salary advantage over all other groups. This pattern holds both when separate regressions are run within occupational groupings and within race/sex groups.

The final chapter of this report involves a study of some selected North Carolina jobs classes on the basis of two job point evaluation systems developed by Hay Associates for the State of Idaho and Willis Associates for the State of Washington. Since it was not possible to have a job evaluation done for the North Carolina State Government workforce, the next best alternative was selected. Job descriptions from these

two states were matched to N.C. job classes and then these salary assignment systems are compared with the present, internally developed N.C. pay structure.

The analyses presented in this final chapter cannot be taken as a full evaluation of the N.C. salary system. Only a portion of all jobs are included in these samples and they are not representative in their selection. The only criteria for membership in each sample was that a suitable job class be found among the Hay (Idaho) or Willis (Washington) evaluations. This does not mean the results obtained are invalid, only that they cannot be generalized to the entire N.C. State Government workforce.

Simple regressions of salary onto evaluation points showed that female dominated (70% or more) N.C. jobs received only $25.71 per Hay evaluation point while male dominated jobs returned an average of $33.75 per Hay point. Similar results are obtained using the Willis system and also in substituting hiring rates for average salary.

Another method of analyzing these salary discrepanies is to examine the race/sex composition of job classes with salaries farthest away from their point evaluation rating. Jobs in these two samples that are paid significantly above their rating are dominated by white males — almost 2/3 of the job classes over 1 standard deviation above their Hay rating had no women or blacks in their workforce. In jobs that paid 1 standard deviation less than their Hay point rating, the situation is reversed; here only 13% of the job classes failed to have any women or blacks.

Another way of analyzing the salary differences between male and female dominated occupations is to examine only those job classes of equal Hay point value. In this sample of 71 jobs, under the present N.C. salary structure, the mean salary of the female dominated positions was 78.8% of the mean salary of the male dominated positions. However, when the Hay system was used to predict salaries the average salary of female dominated positions rose to 92.4% of the mean salary of male dominated positions.

Finally, the regression analyses of positions performed earlier produced cost estimates for implementing each of these two systems. The Hay system would require over $17,000,000 to implement while the Willis system would require over $39,000,000. It must be remembered both the regressions and cost estimates are influenced by the samples from which they are taken. These were not randomly drawn and are not representative of all of state government. Actual cost figures for all of state government would be different and of course subject to external, political and budgetary constraints.

The overall impression of this study has to be one that emphasizes the patterning of salaries by race and sex. Although the pattern varies under certain conditions, it is clear that the three different analytic techniques used in this report all point to a salary advantage for white males under most circumstances. The ultimate sources and further details of this advantage remain objects of further study.

Appendix S

State of North Carolina
Department of Justice

RUFUS L. EDMISTEN
ATTORNEY GENERAL

P. O. BOX 629
RALEIGH
27602-0629

November 8, 1982

MEMORANDUM

TO: E. Ann Christian
Staff Attorney
Legislative Research Commission

FROM: Ann Reed
Special Deputy Attorney General

RE: Constitutionality of G. S. 39-13.6(c) and Proposed Amendment to G. S. 39-13.6(c)

In your letter to this Office on behalf of the Legislative Research Commission's Study Committee on the Economic, Social and Legal Problems and Needs of Women, you posed two separate questions, as follows:

(1) Is G. S. 39-13.6(c) constitutional as it now appears, in that it provides that beginning January 1, 1983, wives will be taxed for one-half (1/2) the value of rents and profits from property owned by them with their husbands as tenants by the entirety, in spite of the fact that, except for conveyances entered into after January 1, 1983, the right to these rents and profits is exclusively the husbands'?

(2) Can an amendment to G. S. 39-13.6, which provides equal right to rents and profits for both spouses constitutionally be made applicable to conveyances entered into before the effective date of the amendment?

With respect to your first question, our tax laws levy an income tax on the net income of all residents of the State.

(G. S. 105-136). As G. S. 39-13.6(c) is now drafted, it imposes an income tax on a wife for income to which she is not legally entitled. We believe this portion of the statute could be challenged successfully.

An analysis of your second question suggests two critical issues:

(1) Does a husband have a vested right to the rents and profits from entireties properties conveyed before January 1, 1983, or is his right merely a contingent right?

(2) If there is such a vested right in the husband, is it an invalid gender-based classification?

In an article appearing in the Massachusetts Law Review, it is suggested that there is no vested right to future rents and profits from entireties properties, since the husband has only "a mere expectation based on the anticipated continuation of existing laws;..." The Effect of the State Equal Rights Amendment on Tenancy by the Entirety, by Fernande R. V. Duffly (1979) 64 Mass. L. R. 205 at p. 213. To be a vested right, a right "must be substantial and have been sufficiently established so as to constitute an interest or right which has vested in, or accured to, its holder." id. at p. 213. See also Parlow v. Turner, 178 S. W. 766 (Tennessee, 1915).

A contingent right, on the other hand, has been defined as a right or interest which does not ripen into complete ownership until the occurrence of another event which may or may not happen. 73 C.J.S. Property, Sec. 3. It does not appear that the right to future rents and profits from entireties properties fits strictly into the traditional definitions of either vested or contingent rights. However, it has been specifically held that income is not generally thought of as property, and "merely having an interest in probable profits is not property." 73 C.J.S. Property, Sec. 3.

Other interests in property have likewise been held to be contingent and not vested rights. In the case of The Presbytery of Southeast Iowa v. Harris, 226 N. W. 2d 232 (1975), the Supreme Court of Iowa held that a statute which retrospectively required

filing of a notice of a possibility of a reverter interest did not unconstitutionally deprive the holders of these interests of vested rights.

It must be pointed out, however, that other incidents of tenancy by the entirety have specifically been held to be vested rights, such as the right of survivorship, and statutes interfering retroactively with the right of survivorship have been held invalid. See 27 A.L.R. 2d at pp. 871-873. See also U. S. v. 339.77 Acres of Land, etc., 240 F. Supp. 545 (1965). It should also be noted that the Massachusetts statute which provided equal right to rents and profits from entireties properties was made applicable only to future conveyances.

Our own Supreme Court, in Dudley v. Staton, 257 N. C. 572 (1962), held that a statute which gave a husband the right to dissent from his wife's will was unconstitutional as a violation of Article X, Section 6 of the North Carolina Constitution, since the statute operated to diminish the wife's devise of her separate estate. (The Constitution was later amended to allow enactment of a statute similar to the one invalidated in Dudley.)

Assuming from this line of authority that a husband's right to future rents and profits could be characterized as a vested right, it is still possible that the proposed retrospective application of G. S. 39-13.6 would withstand challenge if the courts determined that the common law rule amounted to an unconstitutional gender-based classification. See the concurring opinion to Robinson v. Trousdale Co., 516 S. W. 2d 626 (1974).

The reasoning of the Supreme Court in the case of Kirchberg v. Feenstra, 450 U. S. 455 (1981), supports such a determination. In that case, the Court held that the Louisiana community property laws, which gave the husband the unilateral right to dispose of jointly owned community property without his wife's consent violated the Equal Protection Clause.

In conclusion, it is clearly appropriate for G. S. 39-13.6 to apply to all future conveyances. It may be argued that retrospective application of the statute is mandatory for constitutional reasons. Likewise, it may be argued that no vested rights of the parties are involved and that therefore retrospective application of the statute, while not mandatory, is

permissible. Based on our examination of the available authorities, we believe our courts are likely to find that retrospective application of the statute to all conveyances is valid. We suggest, however, that such an application be made clearly severable in order to preserve the integrity of the remainder of the statute.

AR:at

THE NATIONAL FEDERATION OF BUSINESS AND PROFESSIONAL WOMEN'S CLUBS, INC.

WORKING PAPER: INSURANCE DISCRIMINATION

Sex discrimination in insurance is pervasive. This discrimination affects the rates that women pay for insurance and the availability of various types of insurance and insurance options. Currently, legislation is being considered that would prohibit discrimination in insurance based on race, color, religion, sex or national origin.

Insurance companies use sex-based acturial/mortality tables to determine premium rates and benefits in life insurance and pension/annuity programs. Gender-based statistical tables are also used for setting rates in health and disability insurance. Common insurance practices discriminate against women in the availability of coverage, extent of coverage, benefit levels and availability of options. Specific discriminatory practices relating to different types of insurance are described below:

Life Insurance:

Women, as a group, live longer than men. Therefore, women generally pay less for life insurance than men. But, the differences in rates is usually calculated on a three-year setback from men's rates. This means that women pay the same rates as men three years younger than them. Current actuarial statistics, used to calculate pension/annuity rates and benefits, indicate that women live from 6-9 years longer than men.

While women pay slightly less than men for life insurance, options routinely available to men are often denied to women. For example, some insurance companies will not sell a married woman a greater amount of coverage than her husband owns. Guaranteed purchase options to buy additional coverage without evidence of insurability are not available equally to men and women. Waiver of premium options are often not available to women, or when offered, cost women 1½ times more than men similarly situated.

Pensions and Annuities:

As stated above, women, as a class, live 6-9 years longer than men, as a class. Based on this, women participating in private pension or annuity plans are required to pay higher premiums for equal benefits or if they pay equal premiums, they receive lower monthly benefits.

Health Insurance:

Women may live longer than men, but according to current assumptions used in health insurance, they are generally sicker than men. The cost of health insurance for women is often much higher than for men with identical coverage. An Iowa study showed that women pay as much as 50 percent more than men for the same coverage. In addition, many women cannot get coverage for pregnancy, family planning or gynecological services. Insurance companies view maternity as a "voluntary" condition. Yet, many of these policies cover other services related to voluntary conditions, such as vasectomies, cosmetic surgery and sports injuries. When maternity coverage is available, it is often extremely expensive and limited in scope. A study done in Michigan in 1975 showed that health insurance plans covered only 38 to 44 percent of actual maternity costs.

Disability Insurance:

Women frequently pay higher rates for disability insurance and/or receive lower benefits. In ten out of 13 companies surveyed in Pennsylvania, premium rates were consistently higher for women than for men who carried the same or better coverage. Insurance companies sometimes classify men and women in the same occupations differently, so that the women are put into higher risk categories and pay higher rates. The terms and conditions of most disability plans also work against women. There are longer waiting periods, shorter benefit periods and lower maximums for women.

As serious as the differences in rates and benefits may be for women who get disability coverage, a greater problem is that some women cannot purchase disability insurance at any price. Women who work out of their homes have great difficulty getting coverage while men in the same situation do not seem to have problems. Women in certain occupations, such as domestic workers or waitresses, cannot get any disability coverage, while men in similar occupations have access to insurance. Part-time workers, men and women, usually cannot get coverage. Since over 70 percent of the part-time labor force is female, this exclusion has a disproportionately negative effect on women.

Most private disability plans specifically exclude disabilities relating to pregnancy and childbirth. As with health insurance, when pregnancy coverage is available, it is costly and extremely limited in terms of benefits.

Property, Auto and Liability Insurance:

Young women generally pay less than young men for auto insurance. But, five states have now outlawed this practice. In these states, the effects on rates has been marginal.

Discrimination against women in property and liability insurance is less overt, but no less prevalent and discriminatory practices are still commonplace. For example, women frequently have more difficulty in getting homeowners insurance than men similarly situated. Business-related insurance, like business credit, continues to be an area where women are treated unequally. Commercial credit is often linked to adequate insurance coverage for a business and many women have experienced discrimination in applying for business property or liability insurance. Too often, women are prevented from starting or expanding a business because they cannot get the insurance coverage necessary for the operation of the business. When applying for business insurance, women are repeatedly faced with sex-stereotyping by individual agents and underwriters. Differential treatment of women is widespread and commonly accepted throughout the insurance industry.

The insurance industry argues that because women live longer than men, it is necessary to use sex-based statistical tables in rate and benefit-setting. They point out that most states have laws forbidding unfair discrimination in insurance and that differential rate structures based on sex are not unfair. The industry argues that the differences in longevity for men and women are biological in origin and not related to socio-economic factors. It is the contention of the industry that these differences are present in almost all societies and that longevity differences will not change dramatically as more women work, enter high stress professions, smoke, etc.

The industry justifies higher rates for women in disability and health insurance by pointing out that women, as a class, have a higher use rate for these types of insurance. They further state that maternity coverage is not included in most health or disability plans because this condition is voluntary and it would be unfair to make all insured persons share the costs. The exclusion of homemakers from disability coverage is justified by stating that disability insurance is an income replacement mechanism and the homemaker does not have any formal source of income. An industry spokesperson, when asked about the exclusion of part-time workers from disability coverage, defended this practice by saying that it is more difficult to determine whether a part-time worker is truly disabled and that there is not as great an incentive for part-time workers to return to employment as there is for full-time workers.

The insurance industry states that gender is an important factor in establishing fair and sound risk classifications. They believe that if sex discrimination were prohibited, there would be less insurance available to women, women would pay substantially higher premiums for life insurance, the American

insurance industry might lose business to insurance companies outside the United States and that the financial security of the industry would be undermined.

Supporters of nondiscrimination in insurance respond to the industry's arguments in the following ways:

1. Sex discrimination is wrong and should not continue to be sanctioned in any area of American life. The insurance industry itself says that it does not discriminate in "premium rates or in availability of coverage on the basis of race, color, religion or national origin. They say, "to do so would be contrary to both public policy and to general ethics." Supporters of eliminating discrimination believe that this same logic should apply to sex as a classification. The parallels between race and sex discrimination are clear. Black men, as a class, have a shorter life expectancy than white men. Using the argument the industry uses to justify gender-based discrimination, black men should pay more for life insurance and less for pensions/annuities than white men. But, as stated earlier, the insurance industry does not use race as a classification because of social and ethical considerations.

2. If insurance is supposed to spread risks over a participating population, the industry can develop nonsex-based rates and payments to reflect the experience of the whole participating population. The use of sex-based classifications is a distortion of the concept of the "average" man and the "average" woman. Statistically, it is only a small group of women who live longer than a small group of men. Of 100,000 males and 100,000 females retiring at age 65, 86.2 percent of the women had the same death age as 86.2 percent of the men. Thus, all women receive lesser monthly retirement benefits or pay more for equal benefits when less than 14 percent of the women actually live longer.

3. Recent court decisions have attacked the idea of treating individuals as part of a racial or sexual class. In City of Los Angeles, Department of Water and Power v. Manhart, the Supreme Court ruled that employer-operated pension and annuity plans which used sex-based differentials in determining rates and benefits were in violation of Title VII of the Civil Rights Act of 1964. In Manhart, the Court said that even a true generalization about the behavior of the class to which an individual belongs would be insufficient reason for treating the person differently because "there is no assurance that any individual woman (or man) will actually fit the generalization."

4. Sex is an immutable characteristic. Insurance companies can use other variables, such as smoking, occupation, family history, etc., which are good predictors of longevity and health to establish rate classifications.

5. While the industry assumes that the differences in longevity between men and women are biological, others cite "typically male behavior patterns" which clearly contribute to earlier death ages for men. These factors, such as smoking, alcohol abuse, high stress occupations, dangerous occupations, etc., are now more common among women, but it is still too early to tell what effects this will have on women's longevity.

6. Child bearing should not be singled out for exclusionary treatment under health and disability programs. Congress recognized the importance of disability coverage for maternity when it passed the Pregnancy Disability Act in 1979. If society continues to place a high value on motherhood, than the costs of this should be shared and not put completely on women's shoulders.

7. Predictions by the insurance industry on the possible costs of eliminating sex discrimination are not based on facts. While elimination of sex-based classifications may cause some shift upward in life insurance rates for women, these changes should be relatively minor in actual dollar amounts. Any additional dollars that women might pay for life insurance, would be more than offset by eliminating discrimination in other areas of insurance where women pay substantially higher rates.

BPW strongly supports legislation to eliminate all forms of discrimination in insurance. We totally disagree with the industry argument that classifications based on sex are a sound business practice. Sex discrimination is <u>never</u> good business. The debate about nondiscrimination in insurance can get extremely complex. But at the heart of the debate is a simple premise--that sex discrimination should not continue to be sanctioned in an important area of American economic life.

July 1981

Appendix U

Legislative Research Commission's Committee on the Needs of Women

Statement to the ~~Study Commission on Women's~~ Needs
Judy McNeil, Vice President of North Carolina NOW } representing NOW
President of Durham Chapter of NOW
(President of League of Women Voters of Orange County/Hillsborough) not officially representing
Member, Orange County Commission for Women
November 9, 1982

We are told that women, as a group, can expect to live longer than men, while whites outlive blacks, and Mormons live longer than the overall white population. But as a matter of social policy, and in some states as a matter of law, insurance companies overlook actuarial differences based on race or religion. Only one of these three statistics is not ignored in setting insurance rates: sex. In most states, rates for men and women are different for a variety of insurance policies. Women pay less than men for some, such as auto insurance, and more for others, such as annuities.

The main purpose of my presentation here is to dispute the insurance industry's premise that ~~(a)~~ because they ~~should be~~ are allowed to charge differential rates based on proven differential risks, ~~and (b)~~ therefore, they must be allowed to charge men and women different rates. The National Organization for Women contends that, in fact:

- the difference in rates for men and women is far greater than the industry's own statistics would justify
- the industry does not charge or seldom charges differential rates based on factors that their own statistics show are more closely related to differential risks (for example, excessive weight, drinking, recklessness, smoking--as related to life insurance).
- There are certain factors, associated with risk, which the insurance does not use for differential rates--race and religion--then why must we allow sex to be used as a factor for discrimination in insurance?

The practice of differential insurance rates for women + men is discriminatory to women and cannot be justified by the insurance industry's own statistics.

~~Let's go back and delve into these points further~~. In a recent advertisement in several large newspapers, the National Organization for Women asks, "Why Should the Healthier Sex Pay More for Health Insurance? The fact is they shouldn't, but they do. According to the industry's own "1980-81 Source Book of Health Insurance" women have shorter hospital stays then men. And women lose fewer working days than men, even counting childbirth.

But in spite of these facts, insurance companies charge women up to twice as much as men for medical insurance (frequently even excluding pregnancy benefits) and up to twice as much for disability coverage.

NOW's research has also uncovered some other interesting facts:

1. In life, annuity and pension insurance plans, women are given one lifespan for premium purposes and another, different lifespan for paying out benefits. The result is that women "save" 10% to 20% on life premiums (although according to the industry's own figures, the savings should be closer to 40%). However, they get shortchanged significantly on the benefits they get back--particularly on retirement benefits they need to live on.

2. The folklore that says women outlive men is precisely that--folklore. The truth is, 85% of all women live no longer than 85% of all men. Think about that; the longer life expectancy for women that you've always been told about is actually experienced by only 15% of all women. Smoking, overweight, drinking, recklessness, and other factors all affect a person's lifespan much more than his or her sex does. Besides, these are factors over which people have some control, and which they could change in order to get better insurance rates. Sex is not. Yet sex is one factor that insurance companies use almost invariably in setting rates.

3. Women don't really get a break on Automobile insurance. Insurance company lawyers and lobbiests are fighting state efforts to prohibit sex discrimination in auto insurance rates. They claim a change would force female drivers to pay higher premiums. This claim is false.

In fact, their rate-setting practices are unjust to women as well as to men. The present discount for female drivers in relation to male drivers is 35% for teenagers, declining to 0% at age 25 or 30. But sex does not determine low accident frequency. It is rather that the true causal factors (which can be and sometimes are used for rate-setting as well) are more typical of women than men--such factors as low mileage, obedience to traffic laws, and sobriety.

~~Consequently~~, Highway department figures show an average 30% difference in accident rates between males and females of all ages. The insurance companies are therefore overcharging low-mileage, sober, careful drivers of all ages, men as well as women, by more than 30%. This means a yearly overcharge of at least $60 on a $200 premium, or more than $240 on an $800 premium.

Many states have begun to study, and a few have begun making changes, in insurance rate structures that discriminate on the basis of sex. ~~Strides have been made~~. According to a New York Times article in March 1982, "The turning point in the fight over sex discrimination in insurance was a 1978 Supreme Court case, known as the Manhart case, that involved the Los Angeles Water Department's pension plan. The court ruled that requiring women to pay more than men for the same benefits violated Federal equal employment laws.

No state has yet outlawed all sex, race and religious discrimination in insurance, although bills to do so have been introduced. Our own state of North Carolina is one of only five states in the nation which have passed laws banning sex discrimination in car insurance. But isn't it interesting that this one area of insurance in which the biggest strides have been taken against sex discrimination, happens to be one of the few areas in which women were the ones who had been paying the lower premiums.

~~But~~ And the progress against sex discrimination in insurance is slow. The insurance industry is one of the few which is solely state regulated. They have powerful lobbies in every state, and in most have been successful in blocking laws and regulations that would ban sex discrimination in insurance.

Women continue to pay much more for their insurance overall but get the same or lower benefits. The page I've provided to you shows the typical differences in what women and men pay for the same insurance products. Looking at this you can see that women pay an average of $1640 less for automobile insurance over the 8 year period for which the lower premiums apply. But they also pay more than $16,000 over their lifespan for the same medical,

disability, and life insurance with pensions than a man pays for the same insurance products.

NOW's research shows how insurance companies are using sex discrimination to overcharge women on premiums and to shortchange them on benefits. Tens to hundreds of dollars, multiplied by millions of customers means inflated profits for insurance companies year after year.

Over the years the insurance industry has built its case for sex-based insurance by giving an apparent break to women in premiums where the markets are relatively small -- a lower surcharge for women than for men on auto insurance just for youthful drivers, and some reduced life insurance for women, who comprise less than 20% of the policy holders. (In neither case do women get the full break that the industry's logic requires, however.) Where the needs are greatest, and ~~for~~ the most women -- in health insurance and pensions -- women pay more than men, thousands of dollars over a lifetime.

I urge you as a committee of the legislature to investigate the insurance industry in detail in North Carolina. Your actions will result in improving the financial status of women in North Carolina and in halting a corporate practice of sex discrimination that is reaping huge profits for insurance companies at the expense of women.

INSURANCE: EACH PRODUCT HAS TWO PRICES -- FEMALE AND MALE. FOUR EXAMPLES TO COVER A LIFETIME

Automobile Insurance

ONE PRODUCT Liability and Physical Damage, rating factors from Insurance Services Office, Personal Auto Manual, 1980. Primary Classifications: Youthful Operator; Good Student; Unmarried; Owner or Principal Operator; Drive to Work or Business Use. $200 base price assumed. Driver marries at age 25.

TWO PRICES

	Annual Premiums		
Age	Female	Male	(Female) - (Male)
17	$320	$550	-$230
18	300	510	- 210
19	280	480	- 200
20	260	460	- 200
21-24	250	450	- 200
25	250	250	0

Total difference for 8 years, ages 17-24 -$1,640.

Medical Insurance

ONE PRODUCT Hospital-Surgical Policy, State Farm Mutual (Form 97032)*; plan 2: $100 Daily Room and Board; $2,000 Surgical. Includes pregnancy complications. Excludes pregnancy, childbirth.

TWO PRICES

	Annual Premiums		
Age	Female	Male	(Female) - (Male)
25	$289	$187	$102
40	546	284	262
50	573	386	187
64	599	561	38

Total difference for 40 years, ages 25-64 $6,662.

Disability Insurance

ONE PRODUCT Disability Income Policy, Allstate Life (Form HU304)*; Class 2, $700/month base benefit. Excludes pregnancy, childbirth, miscarriage, abortion. Includes complications and non-elective caesarean section.

TWO PRICES

	Annual Premiums		
Age	Female	Male	(Female) - (Male)
25	$182	$128	$ 54
35	307	149	158
45	370	197	173
55	410	305	105

Total difference for 40 years, ages 25-64 $4,854.

Life Insurance and Pension

ONE PRODUCT Minnesota Mutual, Retirement Income at 65 Policy (RI65).**
Life Insurance before age 65 $100,000
Monthly pension starting at age 65 1,000
Pay premiums 20 years. Dividends est. by company deducted.

TWO PRICES

	Annual Premiums		
Age	Female	Male	(Female) - (Male)
35	$4,471	$4,124	$347
45	3,473	3,179	294
54	2,401	2,185	216

Total difference for 20 years, ages 35-54 $5,856.

Female total price exceeds the male total price for these 4 products by $15,732.

* 1981 Time Saver for Health Insurance, National Underwriter Publication
** 1977 Minnesota Mutual Life Rate Book

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Appendix V

REMARKS TO THE

Legislative Research Study Committee on the Economic, Social and Legal Problems and Needs of the Women of the State of North Carolina

on Proposals to Amend Chapter 50 of the General Statutes

November 23, 1982

Madam Chairman, Members of the Committee —

Your Counsel asked on yesterday, after meeting with a committee of elected Clerks of the Superior Court, our Controller in the Administrative Office of the Courts, Counsel of the Administrative Office, and myself [I was not present for the entire meeting] that I appear before you today with some further information on your proposal to amend Chapter 50 of the General Statutes gathered by our office since I last spoke to you on April 5, 1982.

At that time, I observed that a preliminary study of eight counties in the State indicated that there were approximately 75,000 to 80,000 alimony and child support accounts throughout the State. We estimated at that time that 30% of these accounts were in arrears. I also indicated to you that we were in the process of doing an in-depth study of the Clerks' Offices. This study has been completed and it reveals a substantial increase in the number of cases and the number of cases in arrears from what our preliminary review in eight counties indicated.

There are over 100,000 alimony and non-support accounts in the 100 counties. 60% of these are in arrears to some extent. This arrearage could amount to no more than being behind one payment or could amount to as much as being $2,000 in arrears. Because of the manual system

maintained by the majority of the Clerks' Offices, we are unable to provide information we would rely on as to the total amount of the arrearage. However, we do not believe it would amount to anything close to the $76 million collected last year and remitted to children and their parents.

Based on our detailed county-by-county study of the number of accounts and of those in arrears, our estimate is that the annual cost of this proposal in the Clerks' Offices would be one million 154 thousand dollars($1,154,964). This figure includes funding for 68 additional employees (which number is based on the same time and motion study figures presented to you on April 5, 1982), postage costs, limited software changes to existing accounting equipment, and related operating expenses. This total does not include any request for additional accounting equipment, new judges that may be required to handle the possible increase in show cause orders heard, or in assistant district attorneys that may be needed to prosecute additional contempt proceedings.

A more detailed analysis of the cost estimates is contained in a memorandum provided to your Counsel, Ann Christian, by our Controller, Christopher A. Marks.

We support the concept contained in the proposed bills amending Chapter 50 and 15-A —— that being to better assure that errant parents support their children and spouses where ordered to by the Court. Not only does the parent's failure to pay rob the children and spouses of needed support, but it creates a contempt for the court system by both the father and the recipients when the money goes unpaid and the court does nothing

to enforce its order. I believe that I also speak for the Clerks of Superior Court in voicing this feeling. Mr. Jim Carr, Clerk of the Superior Court in Durham County is here and is better equipped than I to represent their position if you have any questions.

In yesterday's meeting with your Counsel, we discussed with her the problems for the Judicial Branch of Government if this law is enacted without taking into account funding for the support needed to carry out the mandate of the bill. Without that funding, the bill will be a hollow act creating raised expectations among recipients of alimony and child support and further condemnation of the court system when it is unable to carry through with the intent of the bill as it attempts to cope with the 100,000 accounts under the present "pen and ink" accounting system. To counteract this, the assembled Clerks and persons from the Administrative Office suggested that rather than making the bill effective statewide as of October 1, 1983, the effective date of the bill be tied to the availability of adequate accounting equipment and/or personnel as determined by the Administrative Office of the Courts on a county-by-county or district-by-district basis. In this way, the requisite backup to the judicial system would provided in a county or district and time would be allowed for coordination with the district attorney and the district court judges before starting the system up in a county or judicial district. The system thus being well organized would accomplish what you desire and that is greater support for the recipient and greater compliance with the law. Therefore, we strongly urge that the October 1, 1983, inplementation date be replaced with a sentence similar to that just enunciated. This will cause the bill to

enjoy greater support from the elected Clerks of Superior Court and other court officials and would make for more effective implementation of the bill by the Administrative Office of the Courts.

My recollection is that the assembled Clerks also suggested to your Counsel that the proposal to amend Chapter 15-A have inserted near Line 24 on Page 1 language along these lines: "The Clerk of Court shall certify the amount due, notify the district attorney, and after the district attorney sets the matter for hearing, notify the defendant of the hearing date."

I might note at this point that your proposal to amend Chapter 15-A apparently relates only to cases where the defendant is placed on probation. My experience as a prosecutor was that many of these defendants were never placed on probation but were given a suspended sentence. If this bill does restrict itself solely to cases wherein the defendant is placed on probation, many errant parents may slip through the cracks.

We believe the proposed 4% surcharge on accounts in arrears would be unwise. When the unified court system was established in this State in the mid-60s, one of the main reasons for its establishment was to escape the myriad of users fees charged in various counties across the State. That principle has been preserved since that time by charging instead a statutorily set "flat fee" so to speak for the handling of the entire case. This proposed surcharge would be a departure from that practice. Additionally, it would open the door to other surcharges being placed on other court actions for the support of worthy projects. I know of two such

proposals in addition to this one. The end result could be that we would one day have a myriad of surcharges attached to differing matters with little "pots" of money earmarked for this project and that project.

I recognize that the proposed 4% fee is there in an effort to help the Judicial Branch of Government meet the duties and responsibilities placed on it by these pieces of legislation. We are appreciative of the committee's recognition of that need. However, I would observe that the Courts Commission has at the behest of the General Assembly studied the entire fee structure of the court system and has recommended increases in court fees amounting to a more than 50% increase over the existing fees. If these recommended increases are enacted by the General Assembly, an additional ten and a-half million dollars minimum will be provided to the General Fund yearly. We believe that the funding needed for implementation of these bills should come from that newly generated revenue or from the General Fund.

In the appearance Chief Justice Branch and I made before the Advisory Budget Commission earlier this month, we listed as our Number One priority accounting equipment for the Clerks' Offices and asked the Advisory Budget Commission to recommend funding for that equipment. We also pointed out to the Commission the proposals of the Courts Commission. I would respectfully ask that you join the Chief Justice and me in supporting our request for this accounting equipment and our request that the funding for it come from the General Fund revenues generated by the General Court of Justice Fees.

State of North Carolina
Department of Justice
P. O. Box 629
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27602

RUFUS L. EDMISTEN
ATTORNEY GENERAL

21 January 1982

SUBJECT: Taxation; Individual Income Tax; Domicil; Married Women

REQUESTED BY: B. W. Brown, Director
Individual Income Tax Division
North Carolina Department of Revenue

QUESTION: May a woman who is married to a North Carolina domiciliary but resides in a state other than North Carolina and intends to remain indefinitely in such other state be conclusively presumed to be domiciled in North Carolina within the meaning of G.S. 105-135(13)?

CONCLUSION: No.

Under the ordinary common law rules of domicile, a person who is sui juris may establish his domicile at a place where he is physically present and intends to remain. However, acquisition of a domicile of choice was unavailable to a married woman at common law because she was deemed to acquire her husband's domicile upon marriage by operation of law. The question of whether a married woman's domicile for individual income tax purposes is that of her husband has never been addressed by the North Carolina courts. Our Supreme Court has, however, had occasion to consider the issue of a wife's domicile in connection with jurisdiction over divorce actions and venue for purposes of administration of a decedent's estate.

As early as 1837, our Supreme Court had begun to depart from a rigid application of the common law rule that a married woman's domicile follows that of her husband. In Irby v. Wilson, (1837) 21 NC 568, plaintiffs, to whom the father of an intestate decedent had assigned his share in his son's estate, alleged that the estate included certain property in which the decedent had acquired an interest by virtue of his marriage to one Mary H.

Mary H. answered that prior to her marriage to decedent she had married one Alexander Jones, that Jones had been living at the time of her marriage to Irby, that the second marriage was null and void, that Irby acquired no interest in her property, and that the assets in question were her sole and separate property. It further appeared that Jones and Mary H. had lived together as husband and wife in Tennessee, that she left Tennessee and began living with relatives in North Carolina, and that Jones later obtained a divorce in Tennessee. Plaintiffs contended the Tennessee divorce was valid because Mary H. was domiciled in that state and that its courts had personal juridiction over her. It was held, however, that the common law rule, upon which plaintiffs relied, ought not be allowed to defeat justice and that despite the fact that her husband had remained a domiciliary of Tennessee, Mary H. had established her own domicile in North Carolina, thereby depriving the Tennessee courts of jurisdiction over her and invalidating the divorce.

The domicile of a married woman was also at issue in In re Ellis, 187 NC 840 (1924). Plaintiff, the executor and sole beneficiary of his wife's estate, filed a motion in Haywood County Superior Court for a change of venue to Cleveland County, where he resided, for trial on a caveat to his wife's will. The court denied his motion, having found that the wife died in Haywood County, that she owned property there, that the subscribing witnesses lived there, that her will had been probated both there and in Cleveland County, and, further, that she was not a resident of Cleveland County at the time of her death. On appeal the husband asserted that both he and his wife were domiciled in Cleveland County.

The Supreme Court, quoting Corpus Juris, observed that during cohabitation the domicile of the husband is at least prima facie the domicile of the wife. Indeed, the Court held that the wife was domiciled in the same county as her husband, but not without noting that "[t]he court below did not find facts sufficient to show that Ellen F. Ellis was domiciled in Haywood County." Id at 844.

We may infer from the use of the term "prima facie" and the reference to the lower court's findings of fact that the Supreme Court elected not to invoke an irrebuttable presumption and would have found the wife's domicile to be different from her husband's had the record supported such a conclusion. The court's departure from the common law rule is particularly interesting since it does not arise in the context of a divorce action, in which the unity of husband and wife is intentionally severed by the parties. There is no suggestion whatever in

Ellis that the marital relationship was other than amicable. Indeed, the husband was his wife's sole beneficiary.

Numerous cases on the issue of domicile of a married woman have been decided since Irby v. Wilson and In re Ellis. Typically, they recite the common law rule and, without further analysis, find the domicile of the wife to be that of her husband. These cases, however, should be understood in light of Irby and Ellis, which, upon careful reading, make it clear that a rigid application of the common law was never intended in North Carolina.

A flexible approach to this issue was adopted in Green v. Commissioner of Corporations and Taxation, 364 Mass 389, 305 NE 2d 92, 82 ALR 3d 1268 (1973), one of the few cases decided to date on the question of a married woman's domicile as it relates to her liability for state taxes. There a woman who had been domiciled in New Hampshire married a man domiciled in Massachusetts. The wife remained in New Hampshire for five months after the marriage in order to wind up her business. She moved to Massachusetts to live with her husband shortly after selling certain corporate stock at a substantial gain. The Commissioner sought to tax the gain on the theory that she had been domiciled in Massachusetts at the time of the sale by virtue of the marriage. The court noted that the common law rule, upon which the Commissioner relied, was based on two propositions: (1) the suspension of the separate legal existence of the wife during marriage, and (2) the desirability of governing the interests of husband and wife by the same law. The first was found to have been rendered moot by the enactment of the married women's property laws in the mid 1800's, and the second, according to the Court, was so eroded as to have no continuing validity. Indeed, the Court found the law, as stated by the American Law Institute, Restatement 2d: Conflict of Laws, §21 and comment d (1971), to be as follows: "A wife who lives apart from her husband can acquire a separate domicile of choice . . . even though her relations with him are wholly amicable." 82 ALR 3d at 1272. The court noted further that policy considerations do not support continued application of the common law rule. Taxation was said to be a practical matter concerned more with substance than with form and, therefore, not to be governed by such artificial rules as the fictional unity of husband and wife. Though the constitutional argument was not discussed per se, the opinion suggests that the operation of the common law rule might well create an impermissible sex-based classification in that nonresidents who married Massachusetts domiciliaries might or might not be subject to that state's income tax laws, depending on their sex.

The policy considerations which influenced the Massachusetts court have equal relevance in North Carolina. Indeed, they may apply here with even greater force since North Carolina, unlike Massachusetts, does not accord any particular status to married couples for income tax purposes in that it does not permit the filing of joint returns. The requirement that a husband and wife file separate returns, albeit on a combined form, is consistent with making a separate determination as to all matters affecting their individual liability for North Carolina taxes, including domicile.

In view of the policy considerations militating against strict adherence to the common law rule and the demonstrated intention of the legislature to tax husbands and wives independently, we conclude that a woman married to a North Carolina domiciliary but residing elsewhere may not be conclusively presumed to be domiciled in this State.

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